

A

Seasonable Treatise ;

Wherein is proved,

That KING *WILLIAM*

(commonly call'd

The CONQUEROR)

Did not get the *Imperial Crown* of
England by the Sword, but by
the Election and Consent of
the People.

To whom he swore to observe
the Original Contract between
King and People.

The *Norman* swore to Laws, by which we're free ;
Laws here more His, than Our Security.

L O N D O N,

Printed for *J. Robinson* at the Golden
Lion in *St. Paul's Church-yard*, 1689.

521. 67
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Sealable Ticket;

Wherein is given

THE KING WILLIAM

(commonly called)

The Conqueror)

Did not of the Royal Crown of
England by the sword, but by
the Election and Consent of
the People.

To whom he gave to elect
the King and People.

And he gave to elect
the King and People.

TO WHOM
The King and People
of the Kingdom of England



*An Explanation of the Frontispiece,
warranted by the Authorities cited
in the following Argument.*

NO sooner had the * *Valiant* *King Harold*
HAROLD conquered the *victorious over*
Danish King, and his *own* *the K. of Den-*
Brother, the daring *TOSTA*, *mark & Tosta,*
but news was brought him, † That *Harold's Bro-*
the *NORMAN* Duke was arrived *ther at York.*
at *Pemsey* in *Suffex*; whereupon, with † *William D. of*
Hastings gave the *NORMAN* battel, *Normandy, at*
which proved fatal to him. *the same time,*
lands in Suffex.

For he was, as you may see, * *slain,*
between the *NORMAN Long-Bows,*
and *ENGLISH Spears,* leaving the
Duke *VICTOR* in the Field. ** Harold meets*
him at Hast-
ings, where
they fight.

WILLIAM, proud with this Suc- ** Harold slain.*
cess, marches with all speed up to *Berk-*
hamstead, near *LONDON.* *The D. comes*
up to London.

The *Rest* of the *ENGLISH* (if
they had look'd upon his coming, as
a Design to conquer the Nation, and
not to assert his pretended legal Title
against *HAROLD*,) were then able

A

to

An Explanation

*Enters into
Compact with
the English, to
make him
King.*

*Britan. gives
him the Scep-
ter.*

*And St. Ed-
ward's Laws
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*A Bishop ten-
ders the Coro-
nation Oath.*

*The Oath
William took
at his Corona-
tion.*

*Sacramentum
Willielmi Se-
nioris. Ante
Altare S. Petri
Apo-*

to have driven him back to his own Country, or at least found him a Cumulary in this, (for there was not a fifth part of the Strength of the Nation that felt the Force of his Arms) but Duke WILLIAM and the ENGLISH soon came to an Agreement, and the latter entred into solemn Compact to make him King.

Thereupon BRITANNIA holds forth to him the Scepter with one Hand, And

With the other shews him the excellent and most famous Laws of St. EDWARD.

As also, at the same Time, a Noble Prelat tenders him the Coronation-Oath: The ENGLISH first being asked, by the Bishop, If they would assent to have the Duke their KING? and if he should then be crowned? To which they all, with an unanimous consent, answered, *Yea, Yea*; Whereupon he takes the Coronation-Oath; the sense of which take as follows.

This Scepter, (*Fairest Queen*) I most thankfully receive, and with it do solemnly Promise and Swear, to govern

vern both Church and State in Apostoli co-
ram Clero &
Populo jure-
jurando ; Pro-
Peace.

misit sevelle Sanctas Dei Ecclesias ac Rectores earum defendere, nec-
non & cunctum Populum, sibi subiectum iuste, ac Regali providentia
regere, rectam Legem Statuere & tenere, rapinas injustaq; judicia pe-
nitentius interdicere. *Hoveden pars Prior. fol. 158. l. 14.*

Exacto prius coram omni Populo iurejurando, quod se modeste er-
ga subiectos ageret, & æquo Jure *Anglos*, quo *Francos*, tractaret.
Malmsh. lib. 3. fol. 154. b. l. 8.

Rex pro bono pacis, juravit super omnes Reliquias Ecclesiæ Sancti
Albani, Tactisq; Sacrosanctis Evangeliiis, bonas & approbatas Anti-
quas Regni Leges, quas Sancti ac pii Angliæ Reges ejus Antecesso-
res, & Maxime Rex Edwardus Statuit, inviolabiliter observare. *Mar-
Paris-Vitz Viginti trium Sancti Albani Abbatuum. fol. 48. l. 37.*

And I vow to Rule my Subjects
with that Justice and prudent Care, as
becomes a good King.

I will (*with the Advice and Consent
of my Great Council*) enact right Law:
Which done, * be Witness all ye Saints, * *The Invocation*
that to the utmost of my Power, I *tion.*
will my self religiously keep and ob-
serve it.

For what can be more vain and in-
consistent with the common Reason of
all Mankind, than for a Prince pub-
lickly and solemnly to ordain a Law,
and the next moment after to break
and abrogate it in his Closet?

All Rapines I will forbid, and all
false Judgments; no illegal or ARBI-

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TRARY ACTS, under pretence of the **Prerogative-Royal**, will I suffer or permit to the oppression of my **ENGLISH Subjects**, between whom, and my **Normans**, I will administer **EQUAL RIGHT**.

And that *God, Angels*, my **NORMANS**, and *You*, (*O Sacred Queen*) may all be **Witnesses** and **Parties** to the sincerity of my Heart, That I will not take the **English-men's Inheritances** by **Injustice**, or thrust them out of their **Paternal Possessions** by wrong; That I have not, nor will pretend to any **Absolute, or Despotical Power** over their **Lives, Liberties, and Estates**; nor violate, break, or alter, the **Fundamental Rights** of the **Kingdom** (as **Tyrants** do, who only design to enslave their **People**). I do here solemnly promise and swear, in the presence of all **Ye mighty Powers**, inviolably to observe and keep the **Sacred Laws** of **St. Edward** my **Kinsman**.

Which said, the **Arch-bishop of York** sets the **Imperial Crown** upon **WILLIAM's Head**; and thus of a **Duke of NORMANDY**, he was created **KING of ENGLAND**.

To



T O M Y
Worthy FRIEND,
The Learned Author of
Argumentum Anti-Normannicum.

Great Britain! fairest Queen of all the Isles,
Enrich'd at Home with bounteous Natures smiles!
Thou such a self-sufficiency dost own,
All Countries need thy Stores, but thou want'st none;
Divided from the World, Thou to thy self art one.
The Sea, and Continent, proclaim Thee Great,
Proud Monarchs have lain Captives at thy Feet :
The Scales of th' Western World are in thy Hand;
Each Kingdom's Fate depends on thy Command.
Where e're thy Friendship, and thy Force combine,
Against that State in vain the Rest design.
To Thee no Ills from Forreign Foes can come,
The basest and more dangerous are at Home.
No Desert Beasts of Prey thy Land does bear,
But yet worse Beasts within thy Bowels are,
Who would thy Rights and Ancient Glories tear.

Those

To my Worthy Friend

*Those having lost their Liberty of Mind,
From vanquish'd Sires a weak excuse would find.
Are these thy Sons? Or Marks of thy disgrace?
Who own themselves a slavish conquer'd Race?
The Norman Duke on Terms receiv'd the Crown,
Swore, He'd by Edward's Laws support his Throne,
Which sure no absolute Victor would have done.
That Title which his Great Successor hath,
Came from the Pact, not from the Breach of Faith.
That gives the Bounds to all incroaching Might,
And sets the Banks about the Subjects Right:
Who pulls them down, lets in a raging Sea,
Which drowns, and swallows up all Property.
Who e're attempt to let that Torrent in,
At their own Houses may the Waste begin;
Let them for others Till their proper Land;
Or under some base Favourites Command,
May they, whilst others riot with their Stores,
Without Relief beg at their Native Doors.
Under their Countries Curse, their Tyrant's Scorn,
May they with never-ceasing Pangs be torn,
Who violate the Sacred Trust to which they're born.
But blest be Thou, and all, who dare, like Thee,
Bravely assert their Countries Liberty.
Our well-built Freedom thou dost make to appear,
And its Foundation from Time's Rubbish clear.
The Norman swore to Laws by which we're free,
Laws were more his, than our Security.*

Him

the Author, &c.

Him King the People's joint Consent alone
Did make, which by that Sacred Oath he won :
Or that same joint Consent had made him none.
We were no Norman Slaves ; nor French could be,
Had we enough True Englishmen like Thee.

But now, my Muse, before you end, take care
Humbly to close up all with Heav'n in Prayer ;
Prayer for that King, who doth Great Britain Rule,
Who of this Isle is th' Universal Soul :
In whom so many glorious Vertues shine,
As make him seem to be of Race Divine.

May Heav'n continually His Guardian prove,
And keep Him safe in all His Subjects Love !
Long may unruffled Peace adorn His Crown ;
May all the Laws in their smooth Channel run ;
And flowing Justice still support His Throne.
Thus blest, and thus united here at Home,
What cannot Britain's Monarch overcome ?
Oh may Great Edward's, and Fifth Henry's Soul,
By Heav'nly Pow'r be transfus'd to him whole !
May He ride Mighty Admiral of the Seas,
Scourging His stubborn Enemies into Peace ;
His Envyng Neighbours all their Powers disown,
Strike to His Flag, and tremble at His Frown ;
And th' humbled World be glad to pay him fear,
And awful veneration every where.
That this may be, —

May

To my Worthy Friend, &c.

*May the Illustrious Senate of the Land,
With their Wise Councils, ever by him stand;
He pleas'd in them, and they resolv'd to show,
What th' utmost stretch of Loyalty can do.
Then will his Glories shine in brightest state,
At th' Head of such a joint Triumvirate:
Then King and People doubly will be blest,
And Europe then enjoy a lasting Rest.
For this let all our Vows to Heav'n be sent,
To see Great Charles happy in's Parliament.*

Argu=



Argumentum
Anti-Normannicum.

S I R,



You were pleased, some time since, (in my happiness of a short, but free conversation with you) to tell me, You had a mind to read how far I could give you satisfaction in a few *Points* you had raised to your self, concerning the *Norman Conquest*; and that within a little while I should have a *Paper* from you wherein they should be contained: You were not long, Sir, in justly acquitting your self of your promise to me; I did receive the *Furniture* of these ensuing *Arguments*, by the *four Questions* you sent me, and hope there is nothing to be found in them, but unbyassed and venerable

B Truth,

Truth, which surely none will be offended to hear. I have endeavoured to pay all possible Respect to You, and to Justice; and, as far as my Abilities could reach, in so small a Treatise, have impartially offered my Thoughts upon them, and now beg your candour in judging me.

Your Questions, Sir, are these.

The First Question.

I. *Whether William, Duke of Normandy, (who was afterwards William the First) got the Imperial Crown of England by the Sword, and made an absolute Conquest of the Nation at his first Entrance?*

The Second Question.

II. *Whether this first William did abolish all the English Laws, and changed the whole Frame and Constitution of the Government?*

*

The

The Third Question.

III. *Whether it be true, That the English had neither Estates nor Fortunes lefe, but all was divided between the King and his Normans?*

The Fourth Question.

IV. *Whether it be not a grand Error to affirm, That there were no English Men in the Common Council of the whole Kingdom?*

I shall take them, Sir, in the order you have sent them to me; and so first begin with your first Question.

The First Question.

** For England thus much I dare speak, and under the rule of Modesty protest, That sithence the Universal Conquest of William, who first commanded and imposed Tribute upon this Land, (for Conquerors may command) Tribute and Subsidie have been as justly, both by the Law of God, and the Law of Nations, paid in England, as in Jewry; yea, and justly continued, as a remembrance of a Conquest. Dr. Fulbec Pandects of the Law of Nations, c. 10. p. 69. One Blackwood wrote a Book, which concluded, That we are all Slaves by reason of the Conquest. Vid. Mr. Petyr. Misc. Parl. p. 66. And this Position is maintained by an Anonimus Author, in his full and clear Answer to Mr. Petyr's Ancient Right of the Commons of England asserted. Pag. 35. in the Margin.*

AS you have stated the Question, Sir, and desire to know what is my Opinion of it; with submission to others, better informed, and who are more able to maintain the Truth of those Principles I proceed upon, than my self, I shall return you this modest Answer, as my Sense and Judgment in the Point, viz. That I cannot conclude

clude in the Affirmative, for these several constraining Reasons.

1. That *William* laid a far greater stress upon his Claim and Titles to this Kingdom, than ever he did upon his great and mighty Conquest, will be very plain and evident, if you please but to consider with me these following Particulars.

1. In that before his Conquest, when the People had chosen *Harold*, the Son of Earl *Godwin* for their King, after the Death of *Edward* the Confessor, and had put aside *Edgar Atheling*, by right of Blood and Inheritance entitled to the Crown: This

Norman Duke made his loud Complaints of the Injuries done him, in not electing him, for he was * Cosen German to the Confessor, who died † without Issue; and, therefore pretended that the Right truly devolved upon him. But, it seems, as ill luck would have it, this Duke they knew to

* *Edward the Confessor* was Son to *Egelsred K. of England* by *Emma*, Sister to *Rich. 1. Duke of Normandy*, who was Grandfather to *Duke William*; so that *K. Edward* and *Duke William* were Cosen Germans once removed, as this farther shews you.

Richard 1.

Richard 2.	Emma.
I	I
Robert.	Edward.
I	
William.	

† *Edward* married *Edith*, the Daughter of *E. Godwin*; but whether upon a vow of Chastity, or upon impotency of Nature, or upon any hatred to her Father, or suspicion against her self (for all these Causes are alledged by several Writers of those Times) he forbore all private Familiarities w.th her.

be a Bastard, and neither the Saxon Law, nor the Norman Custom, could help him in such a Case, and so that Title did him but little good. Well, what therefore was to be his next Work? Why,

Mat. Paris. 1.
Antiq. Brit.
Eccles. 96.

2. Truly his Pretence was then, That the Confessor had designed him for his Successor, and by his last Will had bequeathed this Kingdom to him; And this was confirmed by the consent of the Nobility, and principally of *Harold* himself: and hereupon considering how *Harold* had trickt him, and set the Crown on his own Head, he sends over several Ambassadors, with Commission to require him to remember the Oath he had formerly made to the said *William* in the time of his Extremity, when he was his Prisoner in *Normandy*; Which was, That he, the said *Harold*, should assist him in the obtaining of the Crown of *England*, if ever *Edward* died without Issue.

Wil. Malmesb.
lib. 3. fol. 56.
l. 23.

3. And receiving but unkind Returns from *Harold*, by way of Answer to his Demands, which thus the Historian relates, *De Regno addebat presumptuosum fuisse, quod absque Generali Senatus & Populi conventu & Edicto, alienam*

alienam illi hereditatem juraverit ; 'That
 ' as for him to take an Oath to deliver
 ' up the Inheritance of any Realm, with-
 ' out the general consent and
 ' allowance * of the Senate
 ' and People, could not but
 ' be a great piece of pre-
 ' sumption, yea, altho' he
 ' might have just title so to
 ' do; † wherefore it was an
 ' unreasonable Request of
 ' the Duke now to require
 ' him to renounce the King-
 ' dom, in which he was so well settled
 ' to the good liking and content of
 ' his People. This Norman Duke, not
 to be his own Judg, refers himself to
 the Pope (then *Alexander* the second)
 to decide the Matter, and so resolved
 that the infallible Chair should deter-
 mine who had the Justest Title to the
 Crown and Kingdom, *Harold* or Him-
 self. And the good old Gentleman
 (who would not be behind-hand with
 him in civility for so great a kindness,
 as was the Appealing to him, and so
 flattering him with a Judicatory Power
 over Princes) easily was induced to
 pronounce sentence on *William's* be-
 half.

* That is, without the as-
 sent of the Wittenagemot,
 Mycel Synod, or Parliament.

† Præterea iniquum postu-
 lat, ut imperio decedat, quod
 tanto favore civium regen-
 dum suscepit. *Malmsh.*
 L3. f. 56. l. 30.

But all these blustering Pretences of nearness in Blood, (which it seems his Son *Henry* thought to be the best flower in his Garland, when he * calls himself the Son of *William the Great*, (pray, Sir, be pleased to observe, it is not of *William the Conqueror*) *Qui Edwardo Regi Hereditario Jure successit in Regnum*, Who succeeded

to King *Edward* in the Kingdom, by Right of Inheritance) or the Confessor's bequest of the Crown to him. Or lastly, the Pope's definitive Sentence in *William's* favour. All these blustering Pretences of his, I say, availed but little with *Harold*; and therefore you must think, it could not but incense the Duke of *Normandy* very greatly, so that he had now a just cause of open quarrel against *Harold*, for the Reasons you have heard: And thereupon convening his Parliament, or Assembly of

three Estates, which consisted of the Clergie, Nobility, and Commons; the Nobility, in fine, promised to serve him, and the Clergie and People to aid him with Money, according

* In his Charter, whereby he advanced the Abby of Ely into the degree of a Bishoprick.

Seldeni^{us} ad Eadmerum & Notæ & Spicileg. fol. 211. lin. 39.

Nobility is taken in France for Gentlemen, as well as for Earls, or persons of like dignity.

Verstegan's restitution of decayed Intelligence in Antiquities, dedicated to King James. pag. 173.

to their several Abilities, and such offers as they made, were forthwith set down in writing by a Secretary there present. So that being thus supplied, and assisted with several other of his Friends, he makes for *England*; and was no sooner arrived at a place in *Sussex*, called *Pevenessey*, (now *Pemsey*) and got well on Land, but, by his Proclamation, he declared upon what Occasions he thus entred the Realm; and so preparing to give *Harold* Battle, he hereby seemed as if he would have all the World to know, his Quarrel was more Personal than National. But this I will speak more particularly and largely to, when I come to mention some of the Charters he made after he was established King.

And as Perjury seldom or never escapes unpunished; so here was a visible Instance of the Divine Justice upon *Harold* for his breach of Oath and Covenant to the Duke; for in the Battle of *Hastings* he met with his Reward, losing both his Crown and his Life at once, and leaving *William* to finish the day with Victory, over those that were yet resolved to dispute the Cause with him.

And

Argumentum

And now being rid of his stubborn Enemy, and in the heat of the Chase got to *London*, he possessed himself of that Kingdom which he pretended was his own by Right before from the Titles we have already mentioned. Yet however it was in no such haughty and insulting way, as many boast of, and would gladly have their unwary Readers to believe, upon their bare Credit and Testimony; but he chose the more grateful and complying Artifices of a Courtier, and settled himself in it by a kind of mutual Agreement, and express compact, as now I hope will be clearly demonstrated by what I shall offer to you after this his (pretended absolute) Conquest. For,

1. Tho' he was victorious over his great Adversary *Harold*, yet if he had been an absolute Conqueror, (as hath been of late so vigorously asserted by our Modern Writers) what urgent necessity was there for him, or how did it stand him in such mighty stead, still to keep himself armed with the aforesaid Titles, that so he might have the more colourable pretence of Right and Justice on his side, in laying a legal Claim to this Imperial Crown? For,
me-

me-thinks, if he had a full possession upon such a forcible entry, as is pretended, this had been a stronger Title than any thing else he could have alledged: for how could, or durst, a vanquished, enslaved Nation, dispute with him, when he rode triumphing on their Backs, and had lashed them into an entire submission of vassalage? But,

2. Let us see the manner of this first King *William's* Coronation; and whether or no he did not take an Oath at the same time, which was, in sence and substance (if not just in the words themselves) the very same with that which the Ancient Saxon Kings used likewise to take upon their Coronations. And for your full satisfaction herein, I shall give you the parallel of them both together, and begin first with

The Oath of either King *Edward*, in vita El-
or King *Esthelfred*, (for *Dunstan* fredi Magni,
crowned both of them at *King-* fol. 62.
ston) about the Year 970. Promissio Re-
gis vel Edyar-
di vel Esthel-
redi, (verum,

que enim, Dunstanus Kingstonia Coronavit) circa Ann. 970.

This

Hoc Scripto,
de litera ad li-
teram, descrip-
tum est ad
scriptum illud,
quod *Dunsta-*
nus Archiepis-
copus tradebat
Domino no-
stro *Kingsto-*
nia, ipso illo
die quo Con-
secratus erat in
Regem; atq;
illi interdice-
bat ne ullam spon-
sionem daret præter
spon- sionem illam, quam depo-
suerat in Altari

This writing, punctually to a Let-
ter, corresponds with that Writing
which *Dunstan* the Arch-bishop deli-
vered to our Lord the King at *King-*
ston, that very day of his Coronation;
and did then forbid the King, that
thenceforth he should make any other
Oath, than that which he had made
at the Holy Altar, or what the Bishop
should dictate then unto him.

Christi, quemadmodum Episcopus illi dictaret.

In Nomine
S. Trinitatis,
Ego tria pro-
mitto Populo
Christiano,
meisq; subditis.

In the Name of the Holy Trinity, I
do promise three things to Chri-
stian People, and my Subjects.

*The Oath of the
Saxon Kings at
their Coronation.*

The Oath which
William the First
took at his Co-
ronation.

1. Dei Ecclesi-
am, ac Univer-
sum mei Imper-
rii Populum
Christianum
vera pace frui-
turum.

1. 'That I will
'peaceably govern
'the Church of
'God, and the Peo-
'ple of my King-
'dom.

1. *That he would
defend the Churches
of God, and all their
Pastors.*

2. 'That

K. William's Oath.

Saxon Kings Oath.

2. That he would govern all People that were his Subjects with Justice, and with that prudent care which became a good King.

3. That he would both enact, and himself keep, right Law, and to the utmost of his Power, would interdict all Rapines, and false Judgments.

4. And he added one Article more to the Oath, than was in that of the Saxon Kings; and it was extraordinarily necessary to be done, *rebus sic stantibus*, and that was, *Quod equo jure Anglos & Francos Tracta-*

2. 'That I will utterly interdict Rapines, and all Injustice to all Orders of Men.

3. 'That I do promise, and will command, That in all Judgments, Justice and Mercy shall be mingled together, to the end, that God, who is the Omnipotent Judge of the World, and ruleth over all, may be pleased, out of his infinite Compassion, to be propitiously good and merciful to us all.

2. Me Rapinam, omnemque iniquitatem, omnibus ordinibus interdicturum.

3. Me promissurum & mandaturum in omnibus Judiciis, Justitiam & Misericordiam, ut nobis omnibus, propitius sit, infinita suam miseratione, Clemens ac Misericors Deus, qui vivit & regnat, &c.

Saxon Kings Oath.

K. William's Oath.

Christianus
Rex, qui hac
observaverit,
sibi promere-
bitur honorem
mundanum ;
quinetiam illi
Deus æternus
miserebitur
tam in hac vi-
ta presenti,
quam in Æter-
na illa, quæ
nunquam de-
ficit.

That Christian
King who shall
observe these
things, shall de-
servedly acquire
all earthly Ho-
nour ; moreover
the everlasting
Lord God shall
take Compassion
on him, as well
in this Life, as that
which is Eternal
and Endless.

ret, That he would
govern both the
English and French
by the same equal-
ity of Law with-
out respect to ei-
ther.

This Oath too
he took at the Al-
tar of St. Peter,
before ever he was
Consecrated, and
the Clergie and
Lay were equally
Parties and Wit-
nesses. After which
he was Anointed
and Crowned by
Aldred Archbishop
of York ; for Sti-
gand the Arch-bi-
shop of Canterbury,
was not admitted
to that Office, be-
cause of some de-
fect in his Investiture.

But

' But if he shall do con-
 ' trary to what he promised
 ' God, thenceforth he shall
 ' daily decline, and his Sub-
 ' jects shall fail in their Al-
 ' legiance, and every thing
 ' will be turned from bad to stark
 ' nought; unless in time he reforms the
 ' Errors of his Ways.

Ac si irritum fecerit quod
 Deo erat promissum, tum
 deinceps egregie verget in
 seipsum, mox quidem in popu-
 lo suo; & omne demum
 quicquid sit, convertetur in
 pessimum.

' Meditate often with
 ' thy self, that thou shalt
 ' one day bring thy whole
 ' Flock before the Tribunal
 ' of God, whose Shepherd
 ' thou art here ordained,
 ' and therefore often confi-
 ' der with thy self, and look forward
 ' how thou hast kept those whom
 ' Christ with his own dear Blood, hath
 ' formerly redeemed.

Hoc tecum sæpe meditare,
 quod debeas in Dei Iudicio
 gregem proferre & sistere, in
 quem Pastor in hac vita
 constitutus es; & prospice
 quomodo conservasti quod
 Christus Sanguine suo olim
 redemit.

' It is the Office of an A-
 ' nointed King to judg no
 ' Man unrighteously; to
 ' protect Widdows, Or-
 ' phans and Strangers; to
 ' interdict Robberies; to
 ' punish Whoredoms; to
 ' separate and utterly to ex-
 ' tirpate

Regis Consecrati jus est
 male judicare neminem, VI-
 duas, Orphanos & Pelligri-
 nos tuere & conservare; la-
 trocinia prohibere; scorta-
 tores corrigere; incestuosos
 disjungere ac fornicitatis ex-
 tirpare; veneficas & incanta-
 tores delere; Parricidas &
 perfidos rebus exterminare;
 pauperes eleemosynis suble-
 vare.

to rirpate all incestuous Persons; to abolish and cut off Witches and Enchanters; to banish Parricides and perjured Persons out of his Dominions; to comfort the Poor with Almes.

Senes, Prudentes, & Sobrios sibi in consiliarios a scribere.

To call Grave, Sober, and wise Men to counsel and advise him.

Justos sibi in Ministros constituere; quia quicquid ipse injustum fecerint ejus (Autoritate) universi illius rationem tenentur ille reddere in die Judicii.

To chuse just and good Men for his Ministers and Officers, because whatsoever illegal Actions they shall commit (under his Authority) he must, at the Day of Judgment, give an account for.

Est Collect.

p. 18, 29.

Bract. lib. 3.

fol. 107. 2. b.

And the reason of all this is evident, both from the Laws of God and Man; the King is *Debitor Justitie* to all his People, to rule and govern them by Law: Which, as his late Majesty said, is the Inheritance of every Subject, and the only security he can have for his Life and Estate. *Ad hoc autem creatus est & electus*, writes Bracton, *ut Justitiam faciat Universis*; and that *dum facit justitiam Vicarius est Regis aeterni*, Minister

Minister autem Diaboli, dum declinet ad injuriam. Henry the Third, upon a

Charter granted by his Father King John, and confirmed by himself, de-

clares, *Qui vero id quod dictus Pater noster eis per Chartam suam concessit, &*

nos postmodum annuimus infringere nequaquam volumus, sicut nec de jure debemus; much less a Coronation Oath.

Edward the first tells the Pope, upon a Message sent him, That he could not

answer without consulting his Parliament; and gives this for his Reason,

Jurejurando in Coronatione nostra pre-

stito sumus adstricti, quod Jura Regni nostri servabimus illibata, nec aliquid,

quod Diadema tangat, Regni ejusdem absque ipsorum requisito consilio facie-

mus. Observe, lastly, that Edward the

Third, that famous Conqueror of two

Kings, the Scottish and French, hath

left recorded to Posterity a definitive

Sentence and Judgment in this Point,

as an indisputable rule of Right and

Justice; That he ought, and was bound by

his Coronation Oath, to keep the

Law of the Realm.

Rot. Claus. 9,
H. 3. pars pri-
ma. m. 18,

Rot. Claus. 3,
E. 1. m. 9. m
Schedula,

Pulton Stat.
25. E. 3. f. 150.

C

This

Cited in
White's Sacred
Laws, p. 69.

* 27. E. 1.

† 25. E. 3.

* 42. E. 3.

This Law of the Realm, or Land, was looked upon, in the judgment of these Parliaments, as * *the Law of Ancient Time*, † *of old Time used*, and * *the Old Law*; whose Age made it the more venerable, and gave an addition of honour to it.

Well, having thus shewn you the Coronation of King *William* the First, and given you the Solemn Oath he at the same time took, even before his Consecration, that so he might give all possible satisfaction to the English, of his resolving to rule accordingly; and also having made it plain, that it was the same in substance with that the Ancient Saxons took before him; I shall now descend briefly to set before you some of his own Charters, as likewise some of *William* the Second's, and of *Henry* the First's, his Children, and succeeding Kings; and from them evidence to you, I hope demonstrably, that it was not so much his Conquest he relied upon, when he was settled in this Imperial Throne, as his claim to the Crown of *England*, *Jure Hereditario*, by Right of Inheritance. And for the proof of this, be pleased
to

to accept of these ensuing Instances.

1. In Nomine Patris, & Filii, & Spiritus Sancti, Amen. Ego Willielmus Dei Gratia Rex Anglorum, *Hereditario Jure Factus.* *Carta Antiqua litera D. N. 4.*

2. In Nomine Patris, & Filii, & Spiritus Sancti, Amen. Ego Willielmus Rex Anglorum *Hereditario Jure Factus.* *Carta 4. E. 4. m. 27. per Inspec.*

3. In nomine Sanctæ & individue Trinitatis, Ego Willielmus Dei Gratia Rex Anglorum, notum facio omnibus, tam posteris quam præsentibus Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus, & omnibus fidelibus Franciæ & Angliæ, Quod cum in Angliam venissem, & in finibus Hastings cum exercitu applicuissem contra hostes meos, qui mihi Regnum Angliæ injustè conabatur auferre. *Monast. Anglican. Vol. 1. fol. 317.*

4. In ore gladii (*saint William the First's Charter*) Regnum adeptus sum, Anglorum devicto Haroldo Rege cum suis Complicibus, qui mihi Regnum cum providentia Dei destinatum & beneficio *concessionis* Domini, & Cognati mei gloriosi Regis Edwardi concessum conati sunt auferre, &c. *Carta Westm. per Inspec. 1. E. 4. parte septima m. 26. Mr. Seld. Review, p. 483.*

Come we now to his Second Son,

William Rufus.

Carta Regis
Willielmi Rufi
vide Monast.
Anglican. Vol.
I. fol. 352.

5. Willielmus Rex Anglorum, Willielmo Vicecomiti Filio Baldewini, & omnibus Baronibus suis & Ministris, qui habitant in Devonescira, Salutem. Notifico vobis, quod mea condonatione Ecclesia beati Olavi Regis, & Martyris à Monachis belli ædificata, in honore beati Nicholai, quam cum omni terra quæ pertinet ad Ecclesiam superscripti Martyris meo privilegio, videlicet Literis & Sigillo, liberam facio, & ita liberam & quietam per omnia cum saca & foca, & thol & theam, & infangenetheof, & warpeni, & mурdro, & omnibus consuetudinibus, & operibus & auxiliis, sicut Pater meus liberam fecit Ecclesiam Sancti Martini de bello, *ubi hostem devicit*, & ubi *Coronam Regni hereditariam sibi bellando adquisivit*. T. Walchelino Wintonensi Episcopo & Rogero Bigot apud Wintoniam.

From

From **William Rufus** proceed we to his Brother,

Henry the First.

And, saith he,

6. In Nomine Sanctæ & Individuæ Trinitatis, Patris, & Filii, & Spiritus Sancti, Anno Incarnationis Dominicæ MCVIII Indictione Anno vero Pontificatus Domini Paschalis Papæ secundi †, Regni quoq; mei similiter †, Ego Henricus providente divina clementia Rex Anglorum & Normannorum Dux, Willielmi Magni Regis Filius, qui Edwardo Regi *Hereditario Jure* successit in Regnum, &c.

Ex Hist. Eliensis Eccles. M. S. in Bibl. Bodleana (inter Codices Cant. l. 58.) lib. 3. fol. 2. a. Monast. Anglican. Vol. I. fol. 95.

7. *Again*, Ego Henricus Dei Gratia Rex Anglorum, Filius Magni Regis Willielmi, qui beatæ memoriæ Edwardo in Regnum *Successit*:

Monast. Anglican. Vol. 2. fol. 845.

8. To give you one Charter more. The words of that of *Henry the First*, to the Abby of *Westminster*, are, Pro memoria *Edwardi* Cognati mei, qui *Patrem* meum *liberosq;* illius in Regnum suum adoptivos *heredes* instituit.

Ex MS. Domini Rogeri Owen Equit. Aurati.

And thus have I given you, as it were, a three-fold Cord (not easily to be snapt asunder) to bind hard my Assertion, and to convince those, who will not suffer themselves to be overrun by an obstinate Prejudice, or captivated by a byas'd Interest, that our first William, when he came in, gained not such an absolute Victory as is pretended, over this Nation, (for when he came in, he had not subdued the fifth part of it) but came to the Crown by the Election and Consent of the Clergy and People. And, *secundum populi*, he made a Solemn Covenant with the English, to observe and keep those Laws, which were *bonae & approbate, & antiquae Leges Regni*.

And this, Sir, is what I shall endeavour clearly to make out to you in my Answer to your Second Question.

The

And

C 3

The Second Question.

Whether this first William did abolish Quest, 2.
all the English Laws, and changed
the whole Frame and Constitution
of the Government?

AND doubtless not; For as my
Lord Coke saith, *The Grounds of* Lord Coke's
our Common Laws at this day, are be- Preface to his
yond the Memory or Register of any be- 8th Report.
ginning, and the same which the Nor- Ex vitâ Abba-
man Conqueror then found within this tis Sancti Al-
Realm of England: And those Laws bani.
he swore to observe, which were good,
approved, and ancient.

Now, that these were only his
Norwegian Laws, sure none can, or
ought to believe, after they have
thoroughly examined these plain
Truths, which I shall here offer to
their fair perusal.

If they please to consider what
was the Title of the Laws, cal-
led the Laws of King William
the First, published by Mr. Selden,

with his learned Notes upon
Eadmer, (and since with the
Saxon Laws).

Why, truly, the Title was plainly
this; *These are the Laws
and Customs which William
the King granted to the
whole People of England af-
ter the Conquest of the Land.*
*These were those which the
King Edward his Cousin
held before him.* In these
Laws recited by *Hoveden*, in
the Life of King Henry the Second,
King Edward's Laws are confirmed in
these words; *This we command, That
all Men have and hold the Law of Ed-
ward the King in all things; together
with those Laws which we have added for
the profit of the English.*
So that here was no abolishing of
the Old Saxon Laws that he found,
when he came to govern this King-
dom, nor any setting up of new ones
in their stead: No, so far was he from
any such Designs of introducing new
Laws, (which must needs be then the
absolute Results of Arbitrary Will and
Pleasure, to shew the sad and calami-
tous

tous Effects of an entire Conquest) to the overthrow of those so firmly established already; that, you see, he gives his Confirmation to King Edward's Laws, which indeed, generally speaking, were but a Collection of those the Historian calls, *Bonae Leges ab antiquis regibus latæ, non quod ille statuerit, sed quod observaverit*; not so much the Laws of his own making, as those he caused to be strictly observed and put in execution.

Malmesb. de
Gest. Regn.
Angl. lib. 2.
fo. 42. l. 21.

From the Title of his Laws, proceed we

2. To the Confirmation it self, and here I shall acquaint you with the manner of it, in all its necessary Particulars.

This *William* the First, with his French and Normans, putting many hardships upon the English, which occasioned great Disorders and Convulsions in the State; several of the Saxons chief Nobility, betook themselves to Arms for the sake of their *Antique Consuetudines*, to which they bore an immutable and an immortal Love, and which they feared some were endeavouring

Seld. Tit. of
Hon. fol. 523.

youring to take away and change them, though on the other hand they were obstinately resolved never to part from them, for they had à *Majoribus didicisse aut Libertatem aut Mortem*; and they would rather undergo the worst Calamities of a more cruel War, than they would tamely quit and abandon those dear Laws and Customs, to which they had so long been used, and were so well acquainted with.

Ex lib. Monast.
de Litchfield.
Co. 8. Rep. in
Pref.

The King hereupon, to keep the People in a greater observance of their Duty, and withal, not forgetting the Oath he had taken at his Coronation, caused *twelve of the most discreet and wise Men, in every Shire throughout all England, to take an Oath before himself, to deal sincerely and uprightly, without turning either, ad dextram, aut sinistram*, that is, as my Lord Coke interprets it, 'neither to flatter Prerogative, or extend Priviledg; and to declare and lay open the Constitutions of their Laws and Customs, without concealing, adding, or in any sort varying from the Truth. But finding William and his Norman Barons, who were *Norwegians* by extraction,

traction, were for introducing the
Norwegian Laws: This the English
thought a more killing blow than that
of his Victory; and therefore *Uni-*
versi Compatriotæ qui Leges edixerant,
tristes affecti, being all of them in a
great Consternation, they beseeched
him that they might still retain *Leges*
proprias, their own Laws; and enjoy
Consuetudines Antiquas, their Ancient
Customs, in which their Fathers lived,
Et ipsi in eis nati Et nutriti sunt, quia
durum valde foret sibi suscipere Leges
ignotas, Et judicare de eis quas nescie-
bant, and themselves were born and
bred up in, because it would be very
hard to receive Laws unknown, and
to judg of those things they under-
stood not. And when William deni-
ed, they warmly reinforced their Re-
quests, and then conjured him, *per*
Animam Regis Edwardi, by the Soul
of King Edward, *qui sibi post diem*
suum concesserat Coronam Et Regnum,
Et cujus erant Leges, that he would
not impose a Yoke upon them which
they were not able to bear, and which
would only gall their Necks, and make
them the more fretting and unruly.

Apud Lam-
bard. fol. 149.

Id. Ibid.

King

Apud Cl.
Lambard.
fol. 158.

Co. li. 8. in
Pref.

Ex Libro MS.
de legib. antiq.

King William finding there was no Remedy, tho' he was long resolute, at last, in a Common Council of his Kingdom, yields; and by his Magna Charta, (the ground-work of all those that after followed) he confirmed to them their Ancient Laws, *ad præces Communitatis Anglorum*. Blessing it with the Seal of Security, and Wish of Eternity; closing it up with this general: And we further Command, That all Men keep, and observe duly the Laws of King Edward; rearing up the Frontispiece of his Gracious Work with his Glorious Stile, *Willielmus Dei Gratia Rex Anglorum, Dux Normannorum, Omnibus hominibus suis Francie & Anglicis, Salutem. Statuimus imprimis super omnia unum Deum per totum Regnum nostrum venerari, unam fidem Christi semper inviolatam custodiri, pacem, & securitatem, & concordiam, judicium & justitiam inter Anglos & Normannos, Francos & Britones Wallie & Cornubie, Piſtos & Scotos Albaniæ, similiter inter & Insulanos, Provincias & Patrias que pertineht ad Coronam & dignitatem, defensionem & observationem & honorem Regni nostri, & inter omnes nobis Sub-*
jectos

jectos per Universam Monarchiam Regni Britannia firmiter & inviolabiliter observari.

Ingulphus, Secretary to *William* in *Normandy*, and afterwards made Abbot of *Crowland* by him, is an unexceptionable Witness, to prove that the English Laws were then anew confirmed; and he saith, † ‘I brought this time with me, from *London*, (where he had been about the business of his House) ‘to my Monastery, the Laws ‘of the most just King *Edward*, which my Lord ‘*William*, the renowned ‘King of *England*, had proclaimed authentick and ‘perpetual all *England* over ‘to be kept, under most grievous ‘Penalties, and commended to his ‘Justices in the same Tongue they ‘were set forth.

And this Proclamation was not all (to allay the Storms, which perhaps the violation of these Laws had raised); ‘For the good of Peace, saith an ancient Monk, ‘he swears, upon ‘all the Reliques of the Church of
Saint

† *Ex Ingulpho Abbate Crowlandense, fol. 519. b. l. 37.*

Attuli eadem vice mecum de Londonijs in meum Monasterium Leges æquissimi Regis Edwardi, quas Dominus meus inclitus Rex Wilhelmus authenticas esse & perpetuas, per totum Regnum Angliæ inviolabiliter tenendas sub poenis gravissimis proclamâret, & suis Justitiariis commendâret, eodem idiomate, quo editæ sunt.

* Mat. Paris
in vit. Frethe-
rici Abbatis S.
Albani. fol. 48.
l. 39.

Bonas & ap-
probatas anti-

quas Regni Leges, quas Sancti & Pii Angliæ Reges ejus Antecessores
& maxime Rex Edwardus statuit, inviolabiliter observare.

' Saint *Albane*, touching the Holy Go-
' spel, Abbot *Fredrick* ministring the
' Oath, * the good and approved an-
' cient Laws of the Realm, which the
' Holy and Pious Kings of *England*, his
' Ancestors, and especially King *Ed-*
' ward set forth, inviolably to keep.

Thus we see the Mighty Conqueror
is himself conquered, and solemnly re-
nouncing all Arbitrary Will and
Power, submits his Will to be regula-
ted and governed by Justice, and the
ancient Rights of the English Men.

Besides that, the Laws that were
continued and confirmed, were the
old Saxon Laws, and the Additional
Laws were made for the Benefit and
Advantage of the English, not *Nor-*
mans. And those Laws of Saint *Ed-*
ward, which the English were so fond
of, this *William* solemnly swore, be-
fore God, Angels, and Men, for ever
inviolably to keep and observe.

But before I leave this your Second
Question, Sir, I think it will be no
ways improper to give you the signi-
fication

fication of the word **Conquest**, and in what sence Historians, and learned Antiquaries have understood it.

1. *Matthew Paris* hath it thus, **Rex** Mat. Paris. fol. 941.
Anglie ex Conquestu, dicitur tamen,
quod beatus Edwardus, eo quod herede
caruit, Regnum legavit Willielmo Ba-
stardo Duci Normannorum.

2. *Sir Henry Spelman* in his Glossary, Spelm. Gloss. est. Conquestus. fol. 145.
says, **Willielmus Primus Conquestor** *di-*
citur, quia Angliam conquestus, id est,
acquisivit, purchased, non quod subegit,
not that he subdued it.

3. *Sir John Skene*, Clark of the Re- Skene. p. 39.
gister Council, and Rolls, to King
James in Scotland, in his Book, *De*
Verborum significatione, tells us, That
Conquestus signifies Lands *quibusk ony*
Person acquirit, and possedit, privato
jure, vel singulari titulo, veluti donatio-
ne, vel singulari aliquo contractu.

4. And it seems to me not impro-
bable, that the Title of **Conqueror**, ra-
ther than of **Victor**, was assumed by
him, as being a word more mild, and
originally signifying, as it does in
Scotland,

Mr. Skene de
Verborum sig-
nific. verbo
Conquestus.

Scotland, a Purchaser; which is, he that cometh to a real Estate, not by hereditary Descent, but by Bargain or Gift, &c. *Conquestus dicitur ratione primi Conquestoris, & cum transmittitur ad ejus heredem, exuit naturam Conquestus, & induit naturam Hereditatis.*

5. And that the word *Conquestus* did signify what the Historians say it did, we have Records to justify their Exposition, whereof I shall produce one, and that is above 480 Years ago. It says, *Robertus Filius Nigelli petit versus Richardum Battail Capitale Mesuagium, &c. Ricardus venit & dicit quod pater, &c. fuit persona Ecclesie de Conquestu suo, &c. & dedit, &c. Placita de terris. Mich. 2. Johan. penes Camerar. Scaccar. remanen.* Now surely none can make the word *Conquestus*, here, to signify that the Father of Battel got the Advowson by Conquest, in our modern sense, but that he had it by his own purchase.

6. Sir *Roger Twisden*, in his Preface before King *William's* Laws, and he well enough understood the full meaning of the word *Conquestus*,
says,

says, *Non existimo Willielmum primum de omnium Anglorum terris ad voluntatem suam & pro libitu in modum absolutæ dominationis disposuisse.* I do not in the least imagine, that William the First had the disposition of the Lands of all the English, according to his own Arbitrary Will and Pleasure, and after the manner of an Absolute Conquest.

Apud Lambardum. in Prefac. 155.

Now, Sir, by these several Explanations of the word, I think it is very obvious to any impartial Considerer, that, (however we construe and interpret it now, being either urged by Flattery or Interest so to do) it never did, even in that Age it self, import or signifie such an absolute and entire Conquest, as to carry along with it the enslaving of the whole English Nation, after William's Victory over Harold. Nay, tho' every Body will acknowledge, that this Harold came to the Imperial Crown of England * by a general Election of the Chief of the Nation, yet there is an Ancient Author calls him Conqueror; And what then shall we think of the signification of the word, but that it was an Ac-

D

quest

* a totius Anglie Primatibus ad Regale Culmen electus. Abrev. Chron. Rad. de dicto. fo. 479.

MS. ex Bib.
Domini Wild
defuncti.

quest at most, and that too by the
Voice and Suffrage of the People;
saith he, *Heraldus strenuus Dux Con-*
questor Angliae.

But, Sir, this is not all; I must beg
your patience and leave, for the better
illustration of the word **Conquest**; and
to disabuse the World in this Point,
to present you with this following

Summary SERIES

Of the Stiles of our several descen-
dant Kings, from this *William* the
First, inclusively, to the Great King
Edward the Third; and therein make
an Observation, which perhaps as yet
hath scarcely been taken notice of.

The

The Stiles of the Kings.

1. **W**illielmus Rex Anglorum, &c. *W. 1.*
and sometimes Willielmus
 Cognomento Bastardus Rex Anglorum, &c.
2. Willielmus Rufus Rex Anglorum, &c. *W. 2.*
and sometimes Willielmus
 Dei Gratia Rex Anglorum, &c.
3. Henricus Rex Anglorum, &c. *H. 1.*
sometimes Henricus Willielmi Magni
 Regis Filius.
4. Stephanus Rex Anglorum, &c. *Steph.*
sometimes Stephanus Dei Gratia Rex
 Anglorum, &c.
5. Henricus *omitted* Dei Gratia, *and H. 2.*
used this Stile, Henricus Rex Angliæ, &c. *and sometimes Henricus*
 Filius Imperatricis Matildæ Rex Angliæ, &c.
6. Richardus Rex Angliæ, &c. *R. 1.*

- John. 7. Johannes Rex Angliæ, &c. and added this, Dominus Hiberniæ.
- H. 3. 8. Henricus Filius Johannis Rex Angliæ, &c.
- E. 1. 9. Edwardus Rex Angliæ, &c.
- E. 2. 10. Edwardus Filius Edwardi primi, Rex Angliæ, &c.

And now we are come to the great *Epocha* of Time, when the *Stile* of our Kings altered. *Edward* the Third, in the beginning of his Reign, in several Records, writ himself, *Edwardus Filius Edwardi Filii Edwardi*, that is, *Edward*, the Son of *Edward* the Second, the Son of *Edward* the First. But this distinction not being well approved of, and having considered, that before the Conquest there had been two King *Edwards*, he in all Fines, and in general Records, writ himself, *Edwardus Rex Angliæ, &c. tertius post Conquestum*, which was done in the second Year of his Reign, *Anno Dom. 1328.* which Rule was followed by *Richard 2. Hen. 4. Hen. 5. Hen. 6.*

Hen. 6. and so to succeeding Kings downwards.

And, Sir, to give you a further proof, that King William did not Cancel and Abolish all the English Laws, nor change, as is so much affirmed, the whole Frame and Constitution of the Government, be pleased to hear the Judgment of Mr. Selden, and the Opinion of Sir Winston Churchill; and I hope they are such unquestionable Authorities, as may sufficiently balance, if not totally depress the fiercest of Gain-sayers.

I shall begin with the great and ever famous Selden, (for whose Memory, as truly deserving, I have the highest regards) and shall transcribe his words at large, which may not only serve for a good Solution to this your Second Question, but indeed may possibly fully satisfy you as to your other three.

His words are;

'The Laws of before, as well as of
'after the Norman Conquest, (as it is
'vulgarly called) are here gathered,
'and are perhaps equally observable,
'as the Rest, in the consequent of a
D 3 general

Selden's Review of his History of Tithes. p. 482, 483, 484.

[i] Vid. Quin-
tilian. lib. 5.
Institution.
cap. 10. Athe.
Gentil. de Ju-
re belli. lib. 3.
cap. 5. & Hot-
toman illust.
Quæst. 5.

[k] Calvin's
Can. fol. 17. b

[l] in H. 2.
P. 347.

[m] MS lib. 2.
P. 33. & 30. in
Bibl. Cotton.

‘general consecration of *Tithes* to the
‘Church in *England*. For neither
‘were the *Laws* formerly made, abro-
‘gated by that *Conquest*, altho’ by
‘Law of [i] War, regularly all Rights
‘and Laws of the Place conquered, be
‘wholly subject to the *Conqueror’s*
‘Will. For in this of the *Norman*,
‘not only the *Conqueror’s* Will was
‘not declared, that the former Laws
‘should be abrogated, (and until such
‘Declaration, Laws remain in force,
‘by the Opinion of [k] some, in all
‘Conquests of Christians against Chri-
‘stians) but also the ancient and for-
‘mer Laws of the Kingdom were con-
‘firmed by him. For in his fourth
‘Year, by the Advice of his Baronage,
‘he summoned to *London*, omnes No-
‘biles, sapientes, & Lege sua eruditos,
‘ut eorum Leges & Consuetudines audi-
‘ret, as the words are of the Book of
‘*Litchfield*, and afterward confirmed
‘them, as is further also related by [l]
‘*Roger of Hoveden*. Those, *Lege sua*
‘*eruditi*, were common Lawyers of that
‘Time, as *Godric* and *Alfwyn* were then
‘also, who are spoken of in the Book
‘of [m] *Abingdon*, to be, *Legibus*
‘*Patriæ optime instituti, quibus tanta*
‘*secula-*

* *secularium facundia & præteritorum*
 * *memoria eventorum inerat, ut cæteri*
 * *circumquaq; facile eorum sententiam*
 * *rata fuisse, quem edicerent, approbarent.*
 * And these two, and divers other Com-
 * mon Lawyers then lived in the Abby
 * of Abingdon, *Quorum collationi nemo*
 * *sapiens* (says the Author) *refragabatur,*
 * *quibus rem Ecclesia publicam tuentibus*
 * *ejus oblocutores elingues fiebant.* You
 * must know, that in those days, every
 * Monk here in *England*, that would,
 * might remain so secular, that he
 * might get Mony for himself, pur-
 * chase, or receive by descent to his
 * own use. And therefore it was fit
 * enough for practising Lawyers to live
 * in Monasteries. But what had those
 * *præteritorum memoria eventorum* (that
 * is, Reports, and adjudged Cases of
 * the Saxon Times) availed in their
 * skill, if the former Laws had not
 * continued? More obvious Testimo-
 * nies to this purpose, are had out of
 * [*] *Gervase of Tilbury, Ingulphus,*
 * and others, and we here omit them.
 * But also, indeed, it was not to be
 * reputed a **Conquest**, or an Acquisi-
 * tion by right of War, (which might
 * have destroyed the former Laws) so

[*] Videſis
Cob. Præfat. ad
Relat. 3. & 8.
 & ſi placet
Not. ad for-
teſc. p. 7, & 8.

' much as a violent recovering of the
 ' Kingdom out of the hands of Rebels,
 ' which withstood the Duke's pretence
 ' of a lawful Title, claimed by the
 ' Confessor's adoption, or designation
 ' of him for his Successor; his near-
 ' ness of Blood on the Mother's side,
 ' not a little also aiding such a pretence
 ' to a Crown. For the Confessor's Mo-
 ' ther *Emme*, was Sister to *Richard* the
 ' Second, Duke of *Normandy*, to
 ' whom, *William* was Grand-child and
 ' Heir. But these were only specious
 ' Titles, and perhaps examined curi-
 ' ously, neither of them were at that
 ' time enough. And howsoever his
 ' Conscience so moved him at his death,
 ' that he profest he had got * *England*
 ' only by Blood and the Sword; yet
 ' also by expresse Declaration in some
 ' of his Patents, he before pretended
 ' his Right from the Confessor's Gift.
 ' [p] *In ore gladii, saith he, Regnum*
 ' *adeptus sum Anglorum, devicto Ha-*
 ' *raldo Rege, cum suis complicibus, qui*
 ' *mibi Regnum cum providentia Dei*
 ' *destinatum, & beneficio concessionis*
 ' *Domini, & cognati mei gloriosi Regis*
 ' *Edwardi concessum conati sunt aufer-*
 ' *re, &c.* And the Stories commonly
 ' tell

* Historia Ca-
donensis.

[p] Chart. Ec-
cl. i. Westm in
inspex. part 7.
1. Ed. 4. m. 26.
& vid. Camb.
pag. 104.

tells us, That the Confessor *Succes-*
anem Angliæ ei dedit. And although
Harold also pretended a Devise of
 the Kingdom to himself made by the
 Confessor *in extremis*, and urged al-
 so that the Custom of *England* had
 been from the time of *Augustine's*
 coming hither, [q] *Donationem quam*
in ultimo fine quis fecerit, eam ratam
haberi ; and that the former Gift to
 the *Norman*, and his own Oath for
 establishment of it, were not of force,
 because they were made, [r] *absque*
generali Senatus & Populi conventu &
edicto ; yet for his own part, he was
 driven to put all upon the Fortune of
 the Field, and so lost it. And the
Norman with his Sword, and pre-
 tence of the sufficiency and prece-
 dence of the Gift made to him-
 self, got the Crown, as if he had
 been a lawful Successor to the Con-
 fessor, and not an Universal Conque-
 ror. All this is plain out of the Sto-
 ries, and justified infallibly by that of
 the Titles of many common Persons
 made to their Possessions in *England*,
 after his Kingdom settled, upon the
 possession of themselves or their An-
 cestors, in time of the *Saxon* Kings,
 especially

[q] MS. five
 Autor Guil.
 Pictav. five
 quis alius, sit
 in Bibl. Cot-
 ton.

[r] *Malmesb.*
 lib. 5. de Gest.
 Regum p. 56. 2.
 alii in Will. 1.
 & videbis *Mat.*
Paris in Hen.
 3. p. 1257. E-
 dit. London.

' especially of the Confessor. But this
 ' was always in case, where they by
 ' whose possession the Title was made,
 ' had not incurr'd Forfeiture by Rebel-
 ' lion. Many such Titles are clearly
 ' allowed in the Book of *Dooms-day*,
 ' written in the Conqueror's Time :
 ' One especially is noted by the most
 ' learned *Camden* in his *Norfolk*. That,
 ' as I remember, is touched in *Dooms-*
 ' *day* also, but enough others are di-
 ' spersed there which agree with it. How
 ' could such Titles have held, if he had
 ' made an absolute Conquest of Eng-
 ' land, wherein an Universal Acquisi-
 ' tion of all had been to the Conque-
 ' rer, and no Title could have been
 ' derived, but only from or under him?
 ' More might be brought to clear this,
 ' but we add here only the judicious
 ' Assertion of a great [s] Lawyer of
 ' Edward the Third's Time; *Le Con-*
 ' *queror*, saith he, *ne vient pas pur ou-*
 ' *ster eux que avoient droiturell possession,*
 ' *mes de ouster eux que de leur tort avot-*
 ' *ent occupie ascun terre en disheritance*
 ' *del Roy, & son Corone.* It was spo-
 ' ken upon an Objection made in a
 ' Quo Warranto against the Abbot of
 ' Peterborough, touching a Charter of
 ' King

[s] *Shard.* in
 cas. in itin.
 temp. Ed. 3.
 fol. 143. b.

King *Edgar*, which the King's
 Council would have had void, be-
 cause, by the **Conquest** all Franchi-
 ses, they said, were devolved to the
 Crown. But, by the way, for that
 of his nearness of Blood, which could
 not but aid his other pretended Ti-
 tle; let it not seem merely vain, in
 regard of his being a Bastard. There
 was good pretence for the help of
 that defect also. For, although the
 Laws of this Kingdom, and, I think
 of all other Civil States at this day,
 exclude Bastards (without a subse-
 quent Legitimation) from Inheri-
 tance; yet by the old Laws used by
 his Ancestors and Country-men, that
 is, by those of *Norway*, a Prince's
 Son gotten [?] on a Concubine bond
 or free, was equally inheritable as
 any other born in Wedlock; which
 was, I believe no small Reason, why
 he stood at first so much for the Laws
 of *Norway* to have been generally
 received in this Kingdom. And some
 Stories also which make mention of
 Duke *Robert* his getting *William* on
 that *Arlet* or *Arlec* (as she is sometimes
 written) say, That she was to him a
 good while *vice Uxoris*. So Henry
 of

[?] Vid. *Roger*
de Hoveden in
Rich. 1. fol.
 425, & 347.

[u] In Bibl.
Cotton.

[x] Fide Le-
gat. 3. L. Item
Legato 49. S. 4

[y] Authent.
89. c. 12. dif-
cretis igitur,
&c.

of [u] Knyghton Abbot of Leiceſter :
 Transiens (ſaith he) Robertus aliquan-
 do per Phaleriam Urbem Normania, vi-
 dit puellam Arlec nomine Pelleparii Fi-
 liam, inter ceteras in Choreâ tripudian-
 tem nocte ſequentē illam ſibi conjunxit,
 quam vice Uxoris aliquamdiū tenens
 Willielmum ex ea generavit. And he
 tells us alſo the common Tale of tear-
 ing her Smock. If ſhe were ſo his
 Concubine, or Vice-conjux, (between
 whom and a Wife, even the old [x]
 Imperials make no other difference
 but Honour and Dignity ; and by
 them alſo ſome kind of Inheritance is
 allowed to [y] ſuch Baſtards as are
 Naturales liberi, that is gotten on
 Concubines) ; it was much more rea-
 ſonable that her Son ſhould be repu-
 ted as Legitimate, than that the Son
 of every ſingle Woman, bond or
 free, whether Concubine or no, ſhould
 be ſo, as the Laws of Norway allow.
 And when he had inherited his Duke-
 dom, he made, doubtleſs, no que-
 ſtion, but that his Blood was as good
 in regard of all other Inheritances,
 that might by any colour be derived
 through it. And therefore William
 of Malmsbury well ſtiles him proximè
 con-

consanguineus also to the Confessor, as
 he was indeed on the Mother's side.
 And those [z] of the Posterity of
 Edward Son to Iron-side, were then
 so excluded or neglected, that their
 nearness on the Father's side could
 not prevent him. You may see the
 common Stories of them. But where-
 as that excellent [a] Lawyer Littleton
 says, That William the Conqueror
 was called a Bastard, because he was
 born before Marriage had between his
 Father and Mother, and that after he
 was born they were married, (which
 indeed by the [b] Imperials, and by
 the general Law of [c] France, would
 have made him wholly legitimate);
 I doubt he had but little or no ground
 to justify it. Had he been so legiti-
 mate, it is not likely he should have
 been stiled so commonly and anci-
 ently Bastardus; which Name, even
 in his [d] own Charters he sometimes
 used with cognomento; as also the Ba-
 stards of the old Philip Duke of Bur-
 gundy were wont to do; although of
 later Time it be reputed as a Name
 of dishonour; and the actio injuria-
 rum, or an Action upon the Case lies
 where-ever it be falsely objected, as
 some

[z] Videfis
 Malmsh. de
 Gest. Reg.
 lib. 2. fol 52.

[a] 18. E. 4.
 fol. 30. a.

[b] C. tit. de
 Nat. lib. c.
 eum quis 10,
 &c.

[c] Videfis
 Bacquet de
 Domaino du
 fr-tract. du
 Bastardise.
 c. 9, &c.

[d] Apud
 Cambden in
 Richmondia.

[e] Videſis
Pont. Heute-
rum de liberis
Natural, c. 12.

‘some will [e] have it. But theſe
‘things prove enough, that this *Wil-*
‘*liam* ſeized the Crown of *England*,
‘not as conquered, but by pretence of
‘Gift or Adoption, aided and confir-
‘med by nearneſs of Blood; and ſo the
‘*Saxon* Laws formerly in force could
‘not but continue: And ſuch of them as
‘are now abrogated, were not at all
‘abrogated by his *Conqueſt*, but ei-
‘ther by the Parliaments or Ordinan-
‘ces of his Time, and of his Succeſ-
‘ſors, or elſe by non-uſage or contra-
‘ry Cuſtom.

Surely then none can believe, that
William claimed only by the Sword,
and made an *absolute Conqueſt*; or
that he aboliſh'd all the old *Saxon*
Laws, and conſtituted a new Frame
and Systeme of Government, entirely
for the Intereſt of his *Normans*, and
to the ſlavery and ruin of the whole
Engliſh; nor can any one, me-thinks,
after this, categorically atteſt that there
were no *Engliſh Men* in the Common
Council of the whole Kingdom; or
that the *Engliſh* had neither Eſtates nor
Fortunes left; and that therefore it
were of no great matter and confe-
quence to them, by what Law, Right,
or

or Property, other Men held their Estates.

But not to dwell upon the great Authority of this Learned Man, we will now hear what Sir *Winston Churchill* can inform us as to your Second Question; *Whether the Laws were totally abolished, and a New Government set up, according to the Arbitrary Will and Pleasure of this Norman Conqueror?*

And thus he writes, in his Book dedicated to his present Majesty.

'Duke *William*, better known to us here by the Name of *the Conqueror*, who with like Confidence, and not unlike Injustice, (as *Rollo* did *Normandy*, the seventh in Descent, from whom was this Duke) invaded *England*, pretending a Donation of the Sovereignty from his near Kinsman King *Edward* the Confessor, confirmed, as he alledged, by his last Will and Testament, in the presence of most of the *English* Nobility. But what we allow to the Courage, we must take from the Wisdom of the *English*; that being subdued, they

Sir *Winst.*
Churchill's
Divi Britannici.
ci. fol. 189.

Id. fo. 190.

'con-

continued *nescia vinci*, vexing the
Conqueror, after they had submitted
to him, by such continual Revolts,
as suffered him not to sheath his
Sword all his Reign; or if he did,
urged him to continue still so suspiti-
ous of their Loyalty, that he was
forced always to keep his hand upon
the Hilt, ready to draw it forth, ha-
ving not leisure to intend what was
before established, much less to esta-
blish what he before intended: So
that they put upon him a kind of ne-
cessity of being a Tyrant, to make
good his being a King: Yet such was
the moderation of his mind, that he
chose rather to bind them stricter to
him by the old Laws, than to gall
them with any New, guarding his
Prerogative within that Citadel of
the *Burrough Law* (as they called it)
from whence, as often as they began
to mutiny, he battered them with
their own Ordnance, and so made
them Parties to their own wrong;
and however some that designed to
preoccupate the Grace of Servitude,
gave him the ungrateful Title of *Con-
queror*, which he esteemed the greatest
misfortune his good Fortune had
brought

‘brought upon him) thereby to pro-
‘claim his **Power** to be as **boundless** as
‘his **Will**; which they took to be a-
‘bove all Limitation or Contradiction;
‘yet we find he suffered himself to be
‘so far **conquered** by them, that in-
‘stead of giving to, he took the Law
‘from them, and contentedly bound
‘himself up by those, which they called
‘**St. Edward's Laws**; which being an
‘abbreviation of the great Tripple
‘Code of *Danique*, *Merke*, and *West-*
‘*Sexe Laws*, was such a form of Com-
‘bination, as he himself could not de-
‘fire to introduce a better; and if
‘any thing look'd like **Absolute**, 'twas
‘his disarming them, when he found
‘them thus **Law-bound** hand and
‘foot.

From this Authority, Sir, I think,
it is very plain and obvious, That

I. Here was no **Absolute Conquest**.

II. That neither were all the **Saxon**
Laws cancelled and abolished, by
the coming in of this **Conqueror**.

E

I. That

I. That here was no **Absolute Conquest**; because,

1. Tho' here was an invading *England*, yet it was upon pretence of a *Donation of the Sovereignty from Edward the Confessor*, confirmed by his last Will, and that in the presence of most of the *English Nobility*. And so it was only an endeavour to get his own upon the Claim of an alledged **just Title**; which shewed he had, at least, more reason to demand, than *Harold*, who, at best, was an **Usurper** to detain the Crown: And so the Quarrel to be more **Personal** than **National**.

2. The **Conquest** could not be **Absolute**, for tho' he was, by a happy success over *Harold*, possessor of the *English Throne*; yet saith my Author, The Nation continued, *nescia vinci*; so that whenever he was **Tyrannical** and **Arbitrary**, they were continually vexing him with their Revolts.

3. This

3. This Conquest could not be absolute, because then the English must have been perfect Slaves and Vassals to his uncontroulable Beck; but (alas!) here Sir Winston tells you, the Norman Conqueror could find them no such easy Beasts of Burthen, their Necks would not bear the Yokes of his Severity; for they were several times up in Arms against him, and that after they had submitted to him: so that at most this could be but a submission upon terms.

4. He was so far from being in love with the gawdy name of Conqueror, that when some, that designed to preoccupate the Grace of Servitude, gave him that ungrateful Title, he esteemed it the greatest misfortune his good Fortune had brought upon him. And,

5. The Conquest surely could not be absolute, for then it would have been very idle and ridiculous for any one to say, what Sir Winston, no doubt, but upon good and mature consideration, hath thought fit to say of him, that if any thing look'd like abso-

lute ; and hereby you may plainly take notice, that he seems to wonder how any Man can pretend to make him an absolute Conqueror, when he could hardly find so much as *any thing* to look like it. But,

II. I shall observe to you, that neither were all the Saxon Laws cancelled and abolished by the coming in of this Conqueror.

1. If King *William* might have done despotically whatsoever he had a mind to, then what necessity was there for *such a moderation of his Mind*, as the Author hints to us?
2. Because he found the People were not to be galled with any New, he chose rather (but it was a choice upon Necessity) to bind them stricter to him by the Old Laws ; that is, in plain down-right English, they would not yield to him, nor to his Government, unless he resolved to circumscribe his ruling of them, within the bounds of the good Old Laws, in which
* they

they were born and bred ; and make his French and Normans come over and buckle to them.

3. He suffered himself to be so far conquered by them, as to let them have their Old Laws ; and it was with a kind of good satisfaction too : For,

4. The Book tells you, He contentedly bound himself up by those which they called St. Edward's Laws : And was there not, do ye think, very good Reason for his so doing ? when thereby,

5. He understood at length, that it was a guarding his Prerogative, to keep within that Cittadel of the Burrough Law.

6. And lastly, We cannot rationally think he would, after he had thereby thoroughly looked into them, cancel and abolish them ; since those Laws were such, as, it is said, he himself could not desire to introduce a better.

I hope, Sir, all these Deductions arise naturally from the words themselves, without any force or strain upon the sence ; and what I have said,

may be sufficient to convince you, that King William still kept to the Baron Laws, and did not change the whole Frame and Constitution of the Government; as, you say, is very strenuously, and with heat, asserted by several of our Modern Authors.

I shall yet make bold with your Patience, Sir, and shew you what *Florentius Wigorniensis*, (a famous Historian in King Stephen's Time) and *Brompton* from him, say upon this Point, and so conclude my Argument.

*Floren. Wig.
fol. 650.*

Henricus primus omnes malos consuetudines & injustas exactiones (quibus Regnum Angliæ injuste opprimebatur) abstulit, pacem firmam in toto Regno sua posuit, & teneri præcepit. Legem Regis Edwardi omnibus in commune reddidit, cum illis emendationibus, quibus Pater suus illam emendavit.

*In Hen. 1.
fol. 297, 298.*

Brompton's words are the same, and therefore I shall content my self with only referring you to the Book, without repeating them to you. And, Sir, from hence we may learn,

I. That

1. That this King Henry's Father, William the First, was so far from cancelling and abolishing K. Edward's Laws, that he made them to be the Common standing Laws of the Land, to be equally and inviolably observed as well by the Normans as the English, for he says, *omnibus eam in commune redidit*; unless you will understand the word *Omnibus* to be a particular Universal, and so only to include the Normans; And if so, then it follows likewise, That instead of the Normans giving to the English their Laws, the English Laws were imposed upon the Normans.

2. And whereas there were, 'tis confess, some *Additional Laws* made in his Time, yet you may plainly observe hence, that they were grounded upon, and but a better Improvement and Melioration of the Confessor's Laws; and they were for the Sake, Benefit, and Advantage of the English, as you will find hereafter.

3. Henry the First, Son to this Conqueror William, took away *omnes malas consuetudines & injustas exactiones*, &c. by which England had been sorely oppressed, under his Brother William Rufus, and restored the English to their former Rights and Liberties; and he renewed and confirmed the Ancient Saxon Law, as his Father had done before him, as it is well noted in the continuation of the History of Bede, In *Concilio peritorum & proborum virorum Regni Anglie*.

' Bede Histor.
lib. 3. cap. 30.
fol. 347.

4. But if there had been no Free-men but the Normans; if the Normans had all the Estates of the English given them; if there were none but Normans in the Common Councils of the Kingdom; how is it possible to be supposed, by any that will allow themselves the free use of their Reason, that Henry the First would ever make such a Grant; or, if he did, that the Normans would ever submit to it; or (what

(what is much more unlikely) give their consent to **out** themselves of all their new-gotten Possessions, and reduce themselves back to this notorious *Dilemma*, viz. either to live **Vassals** and **Slaves** under the English, or else *verttere solum*, return to **Normandy**, from whence they came.

There is one thing more which I cannot but mention, and that is; The inconsiderateness of those Men, who so mightily cry up the absolute Conquest of **William the First** over the English, as if they were utterly broken and crushed, and all their **Laws** and **Customs destroyed**; when, as it is demonstrably manifest, that at the Time of **Robert** and his **Normans**, Treason and Conspiracy against **William Rufus** then King, and his Brother, to cut off him, and make **Robert** King in his room; I say, then the Interest of the English was so great and powerful, that it kept the **Crown** upon **Rufus's** Head, maugre all the Power of the **Normans**, who universally joined with **Robert**.

But, Sir, now I will consider the import of your next Question.

The

Sim. Dunelm.
An. 1088. fol.
214. Angli e-
um fideliter
juvabant.

The Third Question.

The Anon-
ymous Author
against Mr.
Petyt. p. 43.

III. Whether it be true, That the
English had neither Estates
nor Fortunes left, but all was
divided between the King and
his Normans?

THOUGH it be confessed, that this
first William obtained the Impe-
rial Crown of England; yet I think
I have clearly made it out to you, Sir,
that it was by a Reception upon Terms,
and not by Right of Conquest; and
it is no less obvious, that the Laws in
general, which were, after such his
Acquisition, ratified and confirmed,
and which continued in full force and
power, were the old Saxon Laws;
and though it cannot be denied, but
that he did introduce some new Laws
of his own, yet those, *quas constitui-
mus*, you have heard, were made, *ad
utilitatem Anglorum*, for the Benefit
and

and Advantage of the English, without the least mention either of the French or Normans. And observable too it is, that those Laws were made *per Commune Concilium totius Regni.* Apud Lambard. inter Leges Gulielmi primi, fol. 170. de Statut. 55.

And if so, Sir, methinks this seems as one strong Argument, that the English could not have all their Estates & Fortunes violently ravished from them; nor the King and his Normans, at their coming in, could not absolutely sweep away all the Statutes, because the good Old Law was still in its full being and virtue; * which was the Metwand and Measure to try the Causes of the Subjects; and, † by which, saith the wise King James, the People's security of Lands, Livings, and Privileges, were preserved and maintained; and, which also is, * the Inheritance of every Subject, and the only security he can have for his Life or Estate. And then they could not lose all they had at this rate, but it must be by a manifest wrong to the Priviledge, as well as well-being of the People; and, no doubt, if the Law had its due course,

as

* Co. 12. Re-
port. fol. 65.

† In his first
Speech to his
first Parlia-
ment, in Engl.
Stat. 1. Jac. c.
2. fol. 1157.

* K. Charl. 1.
Declaration to
all his Loving
Subjects pub-
lished with the
Advice of his
Privy Council,
Exact Coll. &c.
p. 28.

as I have made that plain it had, but that their **Native Rights** were easily recoverable; and the ravaging **Mor- mans** could not keep them in spight of all Justice; for that were a total abolishing of the **Law**.

2. But in the next place, Sir, I make no question but that I shall convince you, that the **English**, at least those who lived in Peace before, and at his coming to the possession of the **English Throne**, did quietly and peaceably enjoy their Inheritances; and their Titles and Claims to them from their **Saxon Ancestors**, were held good and allowed; which, to be sure, they never could have done, had this Kingdom received such an universal Change and Revolution, as so many of our late Learned Authors would needs have us firmly to believe.

Sir Ric. Baker's
Chronicle fol. 23.

Saith Sir **Richard Baker**, in his Chronicle of this King's Life and Reign; ' Though he hath had the Name of ' **Conqueror**, yet he used not the Kingdom as gotten by **Conquest**; for he ' took no Man's living from him, nor ' dispossessed any of their Goods, but ' such

'such only, whose demerit made them
'unworthy to hold them, as appears
'by his Act to one *Warren a Norman*,
'to whom he had given the Castle of
'*Sherborne in Norfolk*. The Story is
faithfully this, as you may find in
Cambden's Britannia; The King, it
seems, had given away *Sherborne* to
Warren a Norman, and one that was
his great Favourite; which *Edwinus*
de Sherborne perceiving, who was the
true Owner of the Castle, and an
English Man, demands, before the
King, his right, in open Court, tells
him it did, *de jure*, belong to him,
upon this Reason of Law, for that he
never had took up Arms against the
King, either before his coming in, or
since; whereupon the King, *vinculo*
juramenti astrictus, gave Judgment of
Right against the *Norman*, and *Sher-*
borne recovered the Lordship.

Mr. Pety's
Ancient Rights
of the Com-
mons of Eng-
land asserted.
Pref. p. 24.

Sir *Henry Spelman* tells you the Sto-
ry, which he hath taken out of an
Ancient Manuscript, concerning the
Family of the *Sharborns*, thus; *Edwi-*
nus de Sharborne, & quidam alii, qui
ejecti fuerunt è terris suis, abierunt ad
Conquestorem, & dixerunt ei, quod
nunquam

Spelm. Gloss.
verbo Dren-
ches. p. 184.

nunquam ante Conquestum, nec in Conquestu suo, nec post, fuerunt contra ipsam Regem in Consilio & Auxilio, sed tamen se in pace. Et hoc parati sunt probare quomodo ipse Rex vellet ordinare. Per quod idem Rex fecit inquiri per totam Angliam si ita fuit, quod quidem probatum fuit: propter quod idem Rex precepit, ut omnes illi qui sic tenuerunt se in pace in forma predicta, quod ipsi, rehaverent omnes terras & donationes suas adeo integrè & in pace ut nunquam habuerunt, vel tenuerunt ante Conquestum suum. That is;

‘Edwin of Sharnburn, and several
 ‘others that were ejected out of their
 ‘Estates and Possessions, went to the
 ‘Conqueror, and told him, that they
 ‘never either before, or in, or after
 ‘the Conquest, were against him the
 ‘said King, either by their Advice, or
 ‘any other Aid, but kept themselves
 ‘peaceably and quietly. And this
 ‘they were ready to make out, which
 ‘way soever the King pleased to appoint.
 ‘Whereupon the said King
 ‘ordered an Inquisition to be made
 ‘throughout all England, whether it
 ‘were so or no; which was plainly
 ‘proved: Therefore he presently
 ‘com-

‘commanded, that all those who so kept
‘themselves peaceably in manner afore-
‘said, as these had done, should be
‘repossessed of all their Estates and
‘Inheritances as fully, amply, and
‘quietly, as ever they had or held them
‘before his Conquest.

This is a Case so full to the Point,
and so plain to every common Under-
standing in its self, that it would be
frivolous to make any deductions
from it. I shall presume to repeat to
you the words of a great and Learned
Judg in the Reign of King Edward
the Third, and give you his judicious
Assertion of this Argument, (tho’ it
be cited before in that of Mr. Selden)
because it was agreed on as a main po-
sitive Rule of Law; and they are
these;

Le Conqueror (saith he) *ne vient*
*pas pour ouster eux, qui avoient droit-
vell possession, mes de ouster eux que de*
leur tort avoient occupie ascun terre en des-
heritance del Roy & son Coronne. ‘The
‘Conqueror came not to oust those
‘who had a Right Possession, but to
‘dispossess those, who, of their own
‘wrong, had enjoyed any Land to
‘the

Johannes
Shardelowe
unus Justic. de
Banco. Rot.
Pat. 16. E. 3.
Pars 1. m. 2.
in *Dugdales*
Chronica Se-
ries annexed
to his *Origines*
Juridicia-
les. fol. 44.

' the disherison of the King and his
' Crown.

What shall we think after all this?
That notwithstanding, the *English* who
had not been in Arms against *William*,
had no Estates or Fortunes left, but all
was divided between the King and his
Normans? Surely no, but just the
contrary, that they did enjoy them
in as full, peaceable, and quiet a man-
ner as ever they did, before he came
to be this high and mighty Conque-
ror.

But again, let me give you, Sir, a-
nother Instance to inforce the Truth
of this Argument.

Placita coram
Rege Hill. An.
no 14. R. 2.
Rot. 50. War.
vid. Dodsworth
& Dugdales
Monastic. An-
glican. Vol. 1.
fol. 305. Col. 1.

In the 14. *Rich. 2.* some 290 Years
ago, there happened a memorable Suit
between the King and the Prior of
Coventry, in the *King's Bench*, the
King demanding *Annuam Pensionem*
pro uno Clericorum Regis, as holding
de Domino Rege per Baroniam.

The Prior pleads, that he held Pri-
oratum prædictum, upon the founda-
tion of *Leofric*, quondam Comitæ *Ce-*
stræ, founded in the Time *Sancti*
Edwardi

Edwardi Regis Anglie, and produces the Charters in Court, and then conveys the Title of Descent, thus ;

Ibidem recitatur Charta ejusdem Regis Edwardi, quas Donationes & Concessionem diversi alii Reges confirmaverunt, & dicit quod postea per processum temporis nomen Abbatie predictae divertebatur in nomen Prioratus, eo quod Leofwinus ad tunc Abbas ibidem creatus fuit in Episcopum Cestrie, & ordinavit per Assensum Monachorum ibidem quod Abbatia predicta ex tunc foret Prioratus, & quod Superiores ejusdem Ecclesie forent Priores successivè in perpetuum, & dicit quod de ipso Leofrico, quia obiit sine Hærede de corpore suo descendente, Advocatio Ecclesie predictae tempore Willielmi Conquest Angliæ cuidam Hugoni Comiti Cestrie, ut Consanguineo & hæredi, ipsius Leofrici, viz. Filio Ermilide sororis ejusdem Leofrici, & de ipso Hugone cuidam Richardo ut Filio & hæredi, & de ipso Richardo cuidam Ranulpho, ut Consanguineo & hæredi, viz. Filio Matildis Sororis predicti Hugonis & de ipso Ranulpho cuidam Ranulpho ut Filio & Hæredi, & de ipso Ranulpho Filio Ranulphi, quia obiit sine Hærede

Jus Anglorum
ab antiquo. p.
16. in the Ad-
dition, &c.

Not. This is
the Hugh to
whom it is in-
maged by
some, that Wil-
liam gave all
the Lands of
the County of
Chester.

de corpore suo descendente, Advocatio prædicta simul cum Comitatu Cestrie & Huntingdon, & aliis diversis Castris, Maneriis, terris & tenementis cum pertinentiis in Anglia & Wallia quibusdam Matildæ, Mabillie, Cecilie & Margeria ut Sororibus & Heredibus prædicti Ranulphi, inter quas proprietia facta fuit de prædictis Comitatibus, Advocationibus & Castris, Maneriis, Terris & Tenementis cum pertinentiis supradictis. Et prædicta Advocatio, simul cum toto prædicto Comitatu Cestrie, cum pertinentiis allocata fuit prædictæ Matilde pro proparte sua in Allocationem diversorum aliorum Castrorum, Manneriorum, Terrarum & Tenementorum cum pertinentiis prædictis Mabillie, Cecilie & Margerie separatim allocatorum, & de ipsa Matilda descendebant prædicta Advocatio simul cum prædicto Comitatu Cestrie cum pertinentiis post proprietiam prædictam cuidam Johanni Scot ut Filio & heredi prædictæ Matildæ, qui quidem Johannes Scot Advocationem prædictam simul cum prædicto Comitatu Cestrie cum Pertinentiis dedit Henrico quondam Regi Angliæ Filio Regis Johannis & heredibus suis in perpetuum, &c. Prædictus Prior sine die.

From this great Record, Sir, I think it is clear and evident ;

1. That *Leofric* was Earl of *Chester* in the Reign of *Edward* the Confessor, and that he dying without Issue, the Earldom of *Chester*, and the Right of Advowson of the Priory of *Coven-*
try, tempore *Willielmi Conquestoris Angliæ*, descended to *Hugh* Earl of *Chester*, ut *consanguineo & Heredi ipsius Leofrici*, as being the Son of *Erminelde*, Sister of *Leofric* ; and that from that *Hugh*, descended *Richard* his Son and Heir ; and from *Richard* descended *Ranulf*, as *consanguineus & heres*, that is the Son of *Mand*, Sister of *Hugh* ; and from that *Ranulph* another *Ranulph* his Son and Heir, &c.

2. Now if *William*, when he came in, made an absolute Conquest, this Title had been impossible to have been maintained.

3. It appears further, That the Plea of the Prior was allowed; for the Record saith, *Prædictus Prior sine die.* And the Advowson aforesaid, *simul cum Comitatu Cestrie & Huntingdon, & aliis diversis Maneriis, Terris & Tenementis, cum pertinentiis, &c.* did descend. And it is to be observed, that Judgment being given upon solemn Debate and Tryal, neither the Judges, nor the King's Counsel, so many hundred Years ago, as in the Age of *Richard* the Second, knew any thing of this new received Notion of an absolute Conquest. And again,
4. 'Tis yet further observable, that the Charter of *Leofric*, and the Title of the Prior had been confirmed, *per diversos alios Reges*, who must certainly have greater knowledg of the Nature of *William* the First his Conquest or Government, than any Man can pretend to in our Times.

But

But further, Sir, I will make bold with your Patience, and give you some few Instances, of the very many that I could, out of *Dooms-day Book*, to satisfy you, that there were many *Proprietors* of English Men, who had their Free-hold Estates, upon Titles paramount to any of the *Conqueror's* Donation. Those I shall take from that industrious and worthy Gentleman, Mr. *Attwood's* Book, intituled, *Jus Anglorum ab Antiquo*, where, in his excellent History of the *Conquest*; among others he hath these following,

Jus Anglorum ab Antiquo:
p. 80, 81, 83,
87, 89, 90.

Surrey.

1. *Hugo de Port* was a very great *Proprietor*, as may be found under the Title, *Terra Hugonis de Port*: Many *Mannors* he had; and as appears in *Hampshire*, he had at least two *Mannors*, *Cerdeford* and *Eschetune*, from his *Ancestors*, before *William's* Entrance.

Pa. 80.
He was not
Tainus Regis.

And even this is a ground to believe, he was a great Man, that he had a Sir-name, or Addition:

Camb. Rem,
p. 136.

Because, if we believe the Great Antiquary, Mr. *Cambden*, *Sir-names* were not settled among the Common People fully, till about the Time of Edw. 2.

Ipsē Comes
tenuit Eſtre-
ham. T.R.E.

2. The Earl of Moreton, a very powerful Prince, as I may call him, held *Eſtreham* in Tenrige Hundred, in the Time of King Edward. He enjoyed several other great Possessions of the Gift of King William. I doubt not indeed but he was a Norman born, yet he was here before the entrance of the Norman Duke, and might, not improbably, be in Favour with King Edward the Confessor, who was all Frenchified. He, to be sure, had some Lands within the Kingdom of England, which he enjoyed not from William's Division.

Camb. Rem,]
p. 136.

Pag. 178.

hamp.

Hampshire.

3. Ralph Mortimer held several Possessions, some of which he had *Jure Hereditario*, from before the **Reputed Conquest**. *Ipse Radulphus tenet Ordie*: This Mannor T. R. E. extra Ecclesiam emptum fuit, eo pacto & conventionione, ut post tertium heredem cum omni pecunia Manerium Ecclesia Sancti Petri de Episcopatu recuperet; nunc qui tenet Radulphus, est tertius heres.

Dorsetshire.

Dorsete.

4. Ten Thains hold Chimedecome. *Ipsi tenuerunt T. R. E. pro. i. Manerio*. Omnes qui has terras tenuerunt T. R. E. potuerunt ire ad quem Dominum volebant.

Staffordshire.

Statfordscire

5. Alric holds Stagrifgeshowe. } And
Aswold holds Chrochesdene. }

Ipsi has Terras tenuerunt T. R. E.

14. more hold Lands of Titles, Prior to King William's, amongst which,

which, the Earls, *Hugh de Ferriers*, and *Alberic de Vere*; the first of which held *St. Warburgh of Chester*, in the Time of the Confessor.

6. And lastly; *Ufred* held several Lands in the Time of King *Edward*, as in the Time of *William the First*. Besides, several dispossessed, who have their Titles allowed.

I think these six Instances are enough (referring the more curious to *Mr. Attwood's* Book before mentioned, or to the great Survey it self) to bear out my Assertion, 'That the English had Estates and Fortunes still in their hands, which they held in King *Edward's* Time, and did not derive under King *William's* Title.

Having now given you these six Individuals, I shall offer you three more, and they are from the Charters of King *William*; the one to the *Dean* of *St. Pauls*, confirming to him the Lands, &c. belonging to that Church, and this was upon the day of his Coronation

zonation too : The other is to the Ab-
 by of *Westminster* : and the third to
 the *City of London*, granting to them
 the *Liberties and Franchises* which they
 enjoyed in the Time of *Edward the*
Confessor.

To begin with that made to the
 Dean of *St. Pauls*.

Ego Willielmus Dei Gratia Rex
Anglorum, una cum Mathilda Regi-
na, Principibusq; meis, coram con-
ventu Sacerdotum Dei, Reverendis
scilicet Archiepiscopis Aldredo &
Stigando, ceterisq; Episcopis, &
Abbatibus hujus Patrie, terras Mo-
nasterii Sancti Pauli, que in tem-
pore Antecessorum nostrorum à qui-
bustibet hominibus ablata fuerant,
& injustè detenta, omnes in die
primi Diadematis & Coronationis
meæ, Deo, ejusq; Apostolo Paulo
in Ludonia, & eorum servitori-
bus in perpetuum possidendas re-
stitui, & eas ex omni parte libe-
ras esse concessi.

Carta Regis
 Williel. Con-
 questor. in Ap-
 pendice in Hi-
 stor. Eccles.
 Cathedr. S.
 Pauli. By Sir
 Will. Dugdale,
 fol. 190.

2. 222

Carte. Antiq.
C. C. n. 31.

2. William the First gives the Church of Westminster, *decimam de Wic de eadem parte qua ad me pertinebat, atq; iterum reddidi eandem partem eis injustè ablatam quàm Rex Edwardus antea dederat.*

So that we see, that as on the one hand William the First gave them the *Tithes* of that part which was his right; so likewise he restored the *Tithes* of that part which was unjustly taken from that Church, and which Edward the Confessor had before given. And no Conquest was here pretended, but the Precedent proves the quite contrary, viz. that there was none insisted on.

3. And now I come to that respecting the City of London.

‘William King grets William Biscop and Godfred * Porterefan,
‘& calle ya Burghwara binner
‘London Frencise & Englise
‘frendlice, & Ic kiden eoy, yeet
‘Ic wille yeet git ben ealra weera
‘la gayweord, ye get weeran on
Eadwerds

* Porteregra-
van port-
grave. Saxo-
nicè.
Hollinthead’s
3d Vol. fol. 15,
2. Col. n. 21.

‘Eadwerds daege Kings. And Ic
 ‘wille yeet ælc child by his Fa-
 ‘der yrfname, æfter his Faders
 ‘daege. And Ic nelle ge Wolian,
 ‘yeet adnig man eoy æmis wrang-
 ‘beode. God eoy heald.

*Willielmus Rex Salutat Willielmum
 Episcopum & Goffridum Portegresum,
 & omnem Burghware infra London Frans. & Angl. am-
 icabiliter. Et vobis notum facio,
 quod ego volo quod vos sitis omni
 lege illa digni qua fuistis Edwardi
 diebus Regis. Et volo quod omnis
 Puer sit Patris sui heres post diem
 Patris sui. Et ego nolo pati quod
 aliquis homo aliquam injuriam vobis
 inferat. Deus vos salvet.*

Englised in Stow's Survey of Lon-
 don, thus:

Stow's Survey
 of London.
 fol. 740.

‘William King grete William Bishop
 ‘and Godfrey Porters and al the
 ‘Burgeis within London Frensh
 ‘and English. And I grant you
 ‘that I wyll that yee be all your
 ‘Lawe worth, that ye were in
 ‘Edwardis dayes the King. And
 ‘I wyl that ich Childe be his
 ‘Faders

Carta. Antiq.
C. C. n. 31.

2. William the First gives the Church of Westminster, *decimam de Wic de eadem parte que ad me pertinebat, atq; iterum reddidi eandem partem eis injuste ablatam quam Rex Edwardus antea dederat.*

So that we see, that as on the one hand William the First gave them the *Tithes* of that part which was his right; so likewise he restored the *Tithes* of that part which was unjustly taken from that Church, and which Edward the Confessor had before given. And no Conquest was here pretended, but the Precedent proves the quite contrary, viz. that there was none insisted on.

3. And now I come to that respecting the City of London.

Williem King grets Williem Bisceop and Godfred * Porterefan, &c ealle ya Burghwara binnen London Frencise & Englise frendlice, & Ic kiden eoy, yeet Ic wille yeet git ben ealra weera la gayweord, ye get weeran on Eadwerds

* Porteregravan portgrave. Saxonic.
Hollinshead's
3d Vol. fol. 15,
3. Col. n. 21.

Eadwerds daege Kings. And Ic
wille yeet aelc child by his Fa-
der yrfname, aefter his Faders
daege. And Ic nelle ge Wolian,
yeet adnig man eoy aemis wrang
beode. God eoy heald.

Willielmus Rex. Salutat Willielmum
Episcopum & Goffridum Porte-
gresum, & omnem Burghware in-
fra London Frans. & Angl. ami-
cabiliter. Et vobis notum facio,
quod ego volo quod vos sitis omni
lege illa digni qua fuistis Edwardi
diutius Regis. Et volo quod omnis
Puer sit Patris sui heres post diem
Patris sui. Et ego nolo pati quod
aliquis homo aliquam injuriam vobis
inferat. Deus vos salvet.

Englised in Stow's Survey of Lon-
don, thus:

Stow's Survey
of London.
fol. 740.

William King grete William Bishop
and Godfrey Porters and al the
Burgeis within London Frensh
and Englysh. And I grant you
that I wyll that yee be all your
Lawe worth, that ye were in
Edwardis dayes the King. And
I wyl that ich Childe be his
Faders

'Faders Eyer. And I nyl suffur,
'that ony Man you any wrongys
'beed. And God you kepe.

Now 'tis evident from this Charter;

1. That it was made, immediately upon, or after, the Coronation of William; because, you see, he styles himself King.

2. This may seem to *justify*, not only what the *Historians*, who lived nearest his Time, (as *Pictaviensis*, &c.) but what his own *Latus* do likewise declare, *viz.* That he was crowned King by compact with the *English*, and at the same time swore inviolably to observe King Edwards *Latus*, which he confirmed to them.

3. With this further, That he denounced a severe Prohibition, that no Man should offer any affront, or do any wrong to the Citizens of London.

4. And for a compleat assurance of all this his Love and Kindness to the

the City, he concludes with a Prayer to Heaven, That God would keep and bless them.

But by the way give me leave to shew you (though I think likewise it does not a little contribute to the strength and validity of my Argument) the Greatness and Power of the City of London in those early Times, I shall transcribe the words of a Learned Writer concerning it, and so leave it to your more serious consideration.

William Stephanides, a Monk of Canterbury, born (as *Stow* saith in his fore-cited Book) of Worshipful Parents in the City of London, and who lived in the Reign of King *Stephen*, in his description of it, hath these words.

Stephanid. Descriptio Nobilissimæ Civitatis Londoniæ, in Stow's Survey, &c. fol. 704. de situ ejusdem.

Inter Nobiles Urbes Orbis quas fama celebrat, Civitas Londonia, Regni Anglorum sedes una est, quæ famam suâ latius diffundit, opes & merces longius transmittit, caput altius extollit. Fælix est aëris salubritate, Christianâ Religione, firmitate munitionum, naturâ situs, honore

honore Civium, pudicitia matronali, ludis
etiam quàm jucunda, & Nobilium se-
cunda virorum.

Id. fol. 705.

Urbs ista viris est honorata, armis de-
corata, multo habitatore populosa, ut tem-
pore Bellicæ cladis sub Rege Stephano bello
apti, ex eâ exeuntes ostentatui, haberen-
tur 20000 Armatorum Equitum, 60 mil-
le Peditum æstimarentur. Cives Lon-
doniæ ubicunq; locorum præ omnibus aliis
Civibus ornatu morum, vestium & men-
se, locutione, spectabiles & noti habentur.

Which in English is thus ;

‘Of all the celebrated Cities in
‘the World, this of London is the Me-
‘tropolis of England ; a City of a
‘very extensive Fame in its self, but
‘much more honourable by the Na-
‘tive Treasure and Commodities
‘which she exporteth. Happy is she
‘in the temperature of her Climate,
‘in the soundness of her Doctrine,
‘Strength of her Forts, agreeableness
‘of her Situation ; in the Credit and
‘Reputation of her Citizens ; the
‘unblemish’d Chastity of the Female
‘Sex ; innocently pleasant, even in
‘her

her Recreations, and honoured with
a numerous Train of Nobility.

The Grandeur of this City chiefly
consists in the Properness and Valour
of her Men; in the bravery of her
Armour, the multitude of her In-
habitants: so that in the fatal Wars
in King Stephen's Reign, there ap-
peared, on a Muster, 20000 Horse,
and 60000 Foot, all armed Soul-
diers. The Citizens of London are
known and esteemed beyond all o-
ther Persons, wheresoever they tra-
vel, for their gentile Deportment,
their good Apparel, their Table, and
Discourse.

So that we see from hence, that in
the Reign of King Stephen, who was
Nephew to King William the First,
(from whose Death, to King Stephen's
Reign, there were not fifty Years)
the City of London was very great
and powerful; but had the Eng-
lish Citizens been all destroyed, and
had all their Estates and Fortunes
been (as is so positively affirmed)
taken away from them by William
the First, it had been impossible, in
so short a Time, for them to have ri-
sen

sen again to that *degree* of *Fame* and *Renown* through all this part of the *World*, as the *Historian*, who was an *Eye-Witness* of it, so credibly assures us.

My next design is to shew you, That from the *General Direction* of the *Writs* and *Charters* in King *William* the *First* his *Time*, it is plainly demonstrable, that *William*, the pretended *Conqueror*, did not *divide* all the *Lands* of *England* amongst his *Norman* followers to hold of him.

Dugdal. *Hist.*
of *Sr. Pauls*, in
the *Appendix*.
fol. 196.

1. W. Cynz gnet Oymund birceop of
Heapbyrig 7 Rob. of Eli. 7 Piebner of Val-
loniis 7 ealle his rcingepevan 7 hir holban
Fpencirce, 7 Engliſce, fpennliſce.

Id est;

Nota, Here are
English She-
riffs, and other
English Offi-
cers, as well as
French.)

1. W. Rex Saluto Osmundum Episco-
pum Saresburiensem, & Robertum de
Ely, & Petrum de Valonia, omnesque
prefectos suos et fideles, Francos et Ang-
los, amice.

2. Williem

2. Willem Cyng gret mines b'pes y Chart. Antiq.
mind Eorles y ealle mind Degnes p'honeirre I.
y Englice.

3. Willem gret mines Bishops, and Here were
mind Eorles, and ealle mind Thegnes, Engl. Thains.
Freneisse and Englisce. Thani Appel-
latione viri in-

les, interdum liberæ Conditionis Homines, interdum Magistratus,
atque sæpenumero Ministri notantur. Gloss. in fin. Lambard, de
p'is. Angl. leg. fol. 223. Col. 1. tit. Thamus.

3. W. Rex Anglorum O. Episcopo Monast. Angl.
Sarisburyensi et L. Abbati Glastoniensi Vol. 1. fo. 189
et A. Vicecomiti omnibusq; Baronibus
Francigenis et Anglis de Sumerfeta, et
de Wiltunscire, Salutem.

4. Willielmus Rex Angliæ Archie- Id. fol. 397. 2
piscopo T. Eboraci, et Justiciariis et Vice-
comitibus, et omnibus Baronibus & Fi-
delibus suis, Francis et Anglis de Ebo-
racescire, et de Carleoli, Salutem.

5. Willielmus Rex Anglorum Walte- Id. fol. 29.
rio Vicecomiti, et omnibus Baronibus suis
Francigenis, et Anglis de Comitatu de
Glocestre, Salutem.

6. Wil

Id. Ibid.

6. Willielmus Dei Gratia Rex Anglorum, Fidelibus suis Francigenis et Anglis, Salutem.

Id. Ibid.

7. Willielmus Rex Anglorum Episcopo de Suthsexa et Vicecomiti, et ceteris Baronibus suis Francigenis et Anglis, Salutem.

Id. Vol. 2.
fo. 845.

8. Willielmus Rex Anglia, G. Vicecom' et Baronibus suis de Caerleil, Salutem.

Id. fol. 845.

9. Willielmus Rex Angliae Thoma Archiepiscopo et Bertramo de Verdun, et Baronibus suis, Francis et Anglis de Everwicscire, Salutem.

Cart. Antiq. N

10. Henricus Rex Angliae Richardo Episcopo London, et Vic' et Prapósito, et omnibus Baronibus et Fidelibus suis, Francis et Anglis, de London et Middlesex, Salutem.

Id. Ibid.

11. Henricus Rex Angliae Vic' et Baronibus London.

Dugdal. Hist.
of St. Pauls, in
the Appendix.
fol. 197.

12. Henricus Dei Gratia Rex Angliae, Archiepiscopis et Episcopis, et Comitibus Angliae;

*

Angliæ ; et Hugoni de Boclande, et omnibus Baronibus & fidelibus suis, Francis et Anglis, de Lundonia, et de Middlesexa, et de tota Anglia, Salutem.

By these Writs and Charters, Sir, (though many more of the like nature might easily be given) I think, with submission, my Argument is firmly maintained; and the plain English of them all is, no more than this, That in William the first's Time there were English Barons as well as French Barons, in Somersetshire and Wilshire; in York-shire and Carlisle; in Gloucestershire and in Suffex: and the Direction of the Writs and Charters is equally given to them both, without any difference of Power or Authority mentioned, otherwise, than that the French Barons had the precedency of the English in those Writs and Charters: * With what force of truth then can it be defended, That the Norman Nobility were at that time the only Nobility, I appeal to the World.

As is asserted by the said Anonimus Author against Mr. Petyt, p. 151.

Id. *ibid.*

6. Willielmus Dei Gratia Rex Anglorum, Fidelibus suis Francigenis et Anglis, Salutem.

Id. *ibid.*

7. Willielmus Rex Anglorum Episcopo de Suthsexa et Vicecomiti, et ceteris Baronibus suis Francigenis et Anglis, Salutem.

Id. Vol. 2.

fo. 845.

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*

Angliæ ; et Hugoni de Boclande, et omnibus Baronibus & fidelibus suis, Francis et Anglis, de Lundonia, et de Middlesexa, et de tota Anglia, Salutem.

By these Writts and Charters, Sir, (though many more of the like nature might easily be given) I think, with submission, my Argument is firmly maintained ; and the plain English of them all is, no more than this, That in William the first's Time there were English Barons as well as French Barons, in Somersetshire and Wiltshire ; in York-shire and Carlisle ; in Gloucestershire and in Suffex : and the direction of the Writts and Charters is equally given to them both, without any difference of Power or Authority mentioned, otherwise, than that the French Barons had the precedency of the English in those Writts and Charters : * With what force of truth then can it be defended, That the Norman Nobility were at that time the only Nobility, I appeal to the World.

As is asserted by the said Anonimus Author against Mr. Petyt, p. 151.

But, I pray, now hear two Branches of his **MAGNA CHARTA**, or Great Charter, which he granted to the English, and they run thus ;

Apud Cl.
Lambard. LL.
Will. prim.
fol. 170. c. 55.

1. *Volumus etiam ac firmiter precipimus & concedimus, ut omnes liberi homines totius Monarchie Regni nostri predicti, habeant & teneant terras suas, & possessiones suas, bene & in pace liberè ab OMNI EXACTIONE INJUSTA, & ab OMNI TALLAGIO ; ita quod nihil ab eis exigatur, vel capiatur, nisi SERVITIUM SUUM LIBERUM, quod de Jure nobis facere debent, & facere tenentur, & prout STATUTUM est eis, & illis à nobis datum et concessum JURE HEREDITARIO in perpetuum, PER COMMUNE CONCILIUM TOTIUS REGNI NOSTRI predicti.*

The Second Branch is ;

Id. c. 63. 2. *Hoc quoque precipimus, ut OMNES HABEANT ET TENEANT LEGES EDWARDI REGIS in omnibus rebus, adandis hiis quas constituimus ad UTILITATEM ANGLORUM.*

*

Sir,

Sir, I think by these two Branches, you may plainly see, King William when he came in, was so far from forcibly taking away the Lands and Possessions of the English, and sharing them among his Normans; that he doth, if possible, more strongly establish their Estates to them, by confirming the good and ancient Laws of Edward the Confessor, which were their best security of all they enjoyed before his entrance; and not only so, but by freeing them from all unjust Taxes and Exactions, excepting only their free Service, which of right was owing to him, and which they were to do, as it was agreed on by themselves, and granted by him to them by hereditary Right for ever, and that by the Common Council of the whole Kingdom; and this was done too wholly for the sake and benefit of the English.

I shall trouble you, Sir, with one more very memorable Record, as late as to the 26. Hen. 3. which shews, That from before the coming in of this Norman Conqueror, down to that

Time, the English had a Property continued to them; and so then this MIGHTY MAN of VICTORY did not govern them as an entire and absolute Conqueror, what-ever our late Writers have been pleased to publish to the World.

The words of the Record are;

Pro Jacobo Archamgere.

Communia de
Term. Sanct.
Mich. 35. fin.
& An. 36. inci-
pien. H. 3. Rot.
pr. penes Re-
mem. dom.
Thes.
Jus Anglorum
ab Antiq. p.
112. 113.
Serjantia tem-
pore Edwardi
Confes.

Rex Baronibus; Mandamus vobis quod occasione arrentationis Serjantiarum, assessa per Robertum Passelewe, non distringas Jacobum de Archamgere per 2. Marc. & dimid. de Temento quod de nobis tenet per Serjantiam in Archamgere, (in Comitatu Southampton, &c.) per Chartam Beati Regis Edwardi Antecessoribus ipsius Jacobi super hoc confectam, sed ipsum Jacobum de predictis 2. Marcis & dimid' quietum esse faciatis in perpetuum; quia Chartam prefati beati Edwardi confirmavimus, & ipsam volumus inviolabiliter observari.

Breve est in forulo Marescalli, & Mandatum est Vicecomiti Southampton

hampton comparat. die Jovis, die

15. Jan. Anno Domini, &c.

The English of it is this :

For *Jacob Archangere.*

‘ The King to the Barons : We com-
 ‘ mand you, that by the occasion of
 ‘ the Rent of Serjanties, assessed by Ro-
 ‘ bert Passeleme, you shall not distrain
 ‘ *Jacob of Archangere* by two Marks
 ‘ and an half, for the Tenement which
 ‘ he holds of us by Serjantie in *Ar-
 ‘ chamgere*, in the County of *Southamp-
 ‘ ton*, and granted by the Charter of
 ‘ the Blessed King *Edward*, to the An-
 ‘ cestors of this *Jacob* ; but he the said
 ‘ *Jacob* shall for ever be freed from the
 ‘ aforesaid two Marks and an half ; be-
 ‘ cause we have confirmed the Charter
 ‘ of the aforementioned *St. Edward* ;
 ‘ and we will have it to be inviolably
 ‘ observed.

- I shall make no Remarks upon this
 Charter, because it is obvious to eve-
 ry intelligent Reader ; the thing I
 drive at, is, to prove, That the English
 were not violently dispossessed of their

Properties, which they quietly held and enjoyed in the Time of Edward the Confessor, but that they still enjoyed them as before, notwithstanding all the vain pretences to the contrary.

And now, Sir, I shall close up this third Point, with a remarkable Passage or two out of *Ordericus Vitalis*, a famous *Historian*, who lived and writ in the latter end of the Reign of H. I. and beginning of K. Stephen, and for that reason must needs be admitted (next to a *Testis Ocularis*) for a Testimony beyond all exceptions. ;

His words are,

Orderic. Vita-
lis Eccles Hist.
lib. 3. fol. 503.

‘Omnia disponente Deo in spatio
trium mensium per Angliam pacata
sunt, cunctiq; Præsules Regniq; Pro-
ceres cum Willielmo concordiam fe-
cerunt, ac ut Diadema Regium su-
meret, (sicut Mos Anglici Principa-
tus exigit) oraverunt. Hoc sum-
moperè flagitabant Normanni, qui
pro falce Regali nanciscendo suo
Principi subierunt ingens discrimen
maris & Prælii. Hoc etiam divino
Nutu

* Nutu subacti optabant Indigenæ Reg-
 * ni, qui nisi coronato Regi servire
 * hætenus erant soliti.

*The next Paragraph but one to this
 goes on thus.*

* Denique Anno ab incarnatione
 * Domini MLXVII. Indictione V. in die
 * Natalis Domini, Angli Lundoniæ ad
 * Ordinandum Regem convenerunt,
 * & Normannorum Turmæ circa Mo-
 * nasterium in armis & equis (nè quid
 * doli & seditionis oriretur) præsidio
 * dispositæ fuerunt. Adelredus itaq;
 * Archiepiscopus in Basilica Sancti Pe-
 * tri Apostolorum Principis, quæ West-
 * monasterium nuncupatur, ubi Ed-
 * wardus Rex venerabiliter humatus
 * quiescit, in præsentia Præsulum &
 * Abbatum Procerumq; totius Regni
 * Albionis, Gulielmum Ducem Nor-
 * mannorum in Regem Anglorum con-
 * secravit, & Diadema Regium capiti
 * ejus imposuit.

*Id. lib. IV. fol.
 505, & 506.*

* Gulielmus Rex multa Lundoniæ
 * postquam coronatus est, prudenter,
 * justè, clementerq; disposuit: quæ-
 * dam ad ipsius Civitatis commoda vel
 * dignitatem, alia quæ genti profice-
 * rent

'rent Univerſæ : Nonnulla quibus
 'conſuleretur Eccleſiis terræ. Jura
 'quæcumq; dictavit optimis rationi-
 'bus ſanxit ; Judicium Rectum nulla
 'perſona nequicquam ab eo poſtulavit.
 'Neminem, niſi quem non damnare
 'iniquum foret, damnavit. Suis quo-
 'que Primatibus digna ſe & gravitate
 'præcepit, & diligenter æquitatem
 'ſuaſit ; Eſſe jugiter in Oculis haben-
 'dum æternum Regem, cujus vicerint
 'præſidio. Nimium opprimi victos
 'non oportere, victoribus profeſſio-
 'ne Chriſtianâ pares, nè quos juſtè
 'ſubegerint, injuriis ad rebellandum
 'cogerent. Seditiones interdixit, cæ-
 'dem, & omnem rapinam frænans, ut
 'Populos armis, ita legibus Arma.
 'Tributis & cunctis rebus ad Regium
 'fiscum reddendis, modum, qui non
 'gravaret, impoſuit, Latrociniiſ, In-
 'vaſionibus, Maleficiis, locum omnem
 'intra ſuos terminos denegavit. Por-
 'tus & quælibet itinera Negotiatori-
 'bus patere, & nullam injuriam fieri
 'juſſit. Sic omnino proba ejus in
 'regnando initia fuere, & incrementa
 'probitatum ad utilitatem Subditorum
 'liquidò fulſere, que in bonis perfe-
 'verantia laudabilisq; ſinis evidentibus
 'ſignis confirmavere.

The

The sence of which is,

King William having sworn indubitably to observe the **Laws** of **Edward the Confessor**, as I have already acquainted you, and being crowned King, the whole **English Nation** in three months time quietly submitted to him; which the *Historian* observes to be by *Divine Providence*: And they much relied upon the force of that **Solemn Oath** he took; and great cause they had for their doing so; for,

Remarkable is it, that in the beginning of his **Reign**, he made a conscience to keep it; and this the *Historian* plainly proves: for so far was he from pretending to be a **Conqueror**, or from exercising **absolute Power** and **Soveraignty** over the **English**, that you see he denied to none right Judgment who required it of him; he condemned none but those who deserved it by the condemnation of the **Law**; he strictly commanded his great Men, to whom he had given the **Estates** of those who had been bold in **Arms** against him, under King **Harold**,
that

that they should behave themselves with all due moderation and temper ; and he invited them to Acts of Justice by his Example : He charged them always to have God before their Eyes, by whose Arms they had so far overcome ; That they should, nay ought, not too much to oppress those they had got the better of, who were Christians with them, lest those whom they had justly subdued, should by such their Oppressions be forced to rebel again ; he strictly forbade them all Violences, that they should restrain themselves from all Cruelties and Rapines ; *That as the People should be kept in Peace by his Arms ; so their Arms should submit to, and be governed by the Laws.*

Apud Lambar.
LL. Wil. prim.
fol. 170. c. 55.

Nor did he only give this admirable Advice, but he prudently governed himself, and set easy Boundaries to those Services, Taxes, & Aids, *quod de jure facere debent*, which were due to him by the Law ; he absolutely denied all Pardons and Grace to Robbers, and all disturbers of the Publick Peace, and wicked Persons : He commanded all the Roads to be free and open for
Tra-

Travellers, and that no Injuries should be done them ; so that the beginning of his Reign was, as it were, a Golden Age ; and his Clemency, and other Acts of Goodness, still shone brighter to the happiness of his Subjects, which was confirmed towards the Loyal and Dutiful, by his steady and commendable perseverance.

Where, in all this, is there any pretence to absolute Conquest and despotical Dominion ?

And now to conclude ; I shall produce an Evidence, that is *omni exceptione major* ; it is *Gulielmus Pictavenfis*, who, (as *Ordericus Vitalis in fine libri tertii* writes) was, *Regis Gulielmi Capellanus*, and writ the Acts of *William the First*. And he categorically says it, That *Nulli tamen Gallo datum est quod Anglo cuquam injustè fuerit ablatum* ; that is, according to the Judgment given in *Sharborn's* case, That those who had kept themselves unconcerned, and had neither, *consilio vel auxilio*, assisted *Harold* against *William*, had the full and free benefit of the *Saxon Laws*, and had *not* their
Estates

Estates unjustly taken from any of them, and given to his French and Normans. *Gulielm. Pictavens. in Gesta Gulielm. Ducis Norman. & Regis Anglorum. fol. 208.*

But I will leave this, Sir, and now come to your fourth and last Question.

And now to conclude; I shall produce an Evidence, that is every way convincing; it is *Gulielm. Pictavens.* who (as *Ordericus Vitalis* in his first part writes) was *Regis Gulielmi Caputman*, and wrote the Acts of his time. And he categorically says it, That *Willelmus Guallo* always had *Anglo* against him; that is, according to the judgment given in *Ordericus*'s case, That those who had kept themselves unconcerned, and had neither committed nor assisted *Willelmus* against *Willelmus*, had the full and free benefit of the *Saxon* Laws, and had not their *English* Laws.

The Fourth Question.

IV. Whether it be not a Grand Error to affirm, That there were no English Men in the Common Council of the whole Kingdom.

*The Anonymous Author against Mr. Pe-
tyt. p. 37.*

Our Government, saith the Learned and most judicious Mr. Hunt, by a King and Estates of Parliament, is as ancient as any thing can be remembered of the Nation. The attempt of altering in all Ages accounted Treason, and the punishment thereof reserved to the Parliament by 25. Ed. 3. The conservancy of the Government being not safely to be lodged any where, but with the Government it self. Offences of this Kind not pardonable by the King, because it is not in his Power to change it. This is Our Government, and thus it is established, and for Ages, and immemorial Time hath thus continued; a long succession of Kings have recognized it to be such.

In his Argument for the Bishops Right in judging in Capital Causes in Parliament. Postscript. p. 2.

This

This too perhaps will be granted, Sir, in some sence, that for a long Series, and Tract of Time, the Govern-ment hath been so; but the main pinch and stress of your Question, as I apprehend it, is this, Whether after William the Conqueror had settled himself as well as he could on the English Throne, he did admit any of the English to sit in the Great Council of the Nation, and to Advise and Consult, *de arduis & Urgentibus negotiis Regni*? And I hope this I shall make plain and evident to you, That the Grand Court of Parliament was in substance the same that it was before the coming in of this Conqueror, and that there were English Men Members of it in the Time of the Conqueror.

'Tis not to be denied, but that the same Courts, that were in the Saxon Time for administration of Justice, continued after William the first was made King, and the Footsteps of them remain yet to this day: I shall mention a few, and so come to the main Point in Argument.

aidT

i. As

i. As it was their Wisdom to pre-
 serve the Ancient Land-marks; so
 was it likewise both their Wis-
 dom and their Care to continue
 their due Privileges and Inte-
 rests. Their County Courts were
 still kept up, and every County
 had its Court, and every Court
 its wonted Jurisdiction: no com-
 plaint must be to the King's
 Court, if Right might be done
 in the County; no Distress must
 be taken but by Warrant from
 the County, and that must be af-
 ter complaint thrice made. The
 County Court must be called, as
 our Ancestors have appointed:
 such as will not come as they
 ought, shall be first summoned,
 and in case of default, distrained;
 at the fourth default, *Reddatur de*
rebus hujus hominis quod calump-
niatum est, quod dicitur Ceapgel,
& insuper Regis forisfactura;
 that is, The Complainant shall
 be satisfied out of the Distresses
 so taken, and the King also for
 his Fine. These are the express
 Laws of the Conqueror's own
 H esta.

i. County
 Courts.

LL. Hen. i. c. 6
 apud Lambard
 fol. 180.

LL. Guil. r. 41
 fol. 168.

LL. Guil. c. 64.

establishment. The *last* of which also was confirmed by another express *Law*, saving that he would allow but of *two Summons* and *two Distresses* before *Execution*.

I shall give you a memorable case to prove the continuance of this Court.

Selden's *Titles of Honour*, 2d Part c. 5 f. 581 u. Eadmer. *Hist. Nov.* l. 1. p. 9 & vide *notas ad eundem* p. 197. de *placito apud Pinenden* inter *Lanfrancum Archiepiscopum & Odonem Bajocensem Episcopum*.

Odo, the Conqueror's half Brother, was by him made Earl of *Kent*, and therewith had the Gift of a large Territory in *Kent*, and taking advantage of the King's displeasure at *Stigand*, the Arch-bishop, of *Canterbury*, possessed himself by *Disseisin* of divers Lands and Tenements belonging to that See. *Lanfrank*, the succeeding Arch-bishop being informed hereof, petitioned to the King that Justice might be done him *secundum Legem Terræ*, and the King sends forth a Writ to summon a *County Court*: The Debate lasted three days before the *Freemen* of the *County* of *Kent*, in the presence of many *chief Men*, *Bishops* and *Lords*, and others *skilful in the Laws*; and the Judgment passed for the

the Arch-bishop *Lanfrank*, upon the *Clotes* of the *Freemen*. This *County Court* was holden by *special Summons*, and not by *adjournment*, as was allowable by the *Saxon Law* upon special occasions: And this *Suit* was originally begun, and had its final determination in the *County Court*. And the *County Courts*, in those days, were of so great esteem, that two of the greatest *Peers* of the Realm, one a *Norman*, the other an *Italian*, did cast a *Title* in fifteen Mannors, two Lordships, with many Liberties upon the *Clotes* of the *English Freeholders* in a *County Court*; and that the Sentence was allowed and commended by the *King*, and submitted to by all. But,

2. The *Hundred Courts* were still continued, and they were of *two sorts*. The *first* whereof was holden twice a Year, and all the *Free-holders* within the *Hundred*, were bound to appear for the service of their *Fees*; and was the *Sheriff's Court*, and such appearances were called the *Sheriff's Turnes*, where it belonged

Argumentum

to *Sheriffs* to enquire of all *Personal Offences*, and of all their *Circumstances* done within those *Hundreds*. The other was the more *ordinary Court*, belonging to the *Lord* of the *Hundred*, to whom also belonged the *Fines* in cases there concerned. This *Court* was to be held *once* in *each Month*; and no suit to be begun in the *King's Court*, that regularly ought to begin in the *Hundred*. No *Distingas* to issue forth till *three demands* made in the *Hundred*. And *three Distresses* then to issue forth; and if upon the *fourth* the *Party* appear not, *execution* then to be by *Sale* of the *Distress*, and the *Complainant* to receive *satisfaction*.

3. And so likewise were the *Court Barons*, &c. continued, and the *Lords* held *Pleas* either in their *own Persons*, or by their *Stewards*.

But not to forget, Sir, your Question, I shall now shew you what the *Sovereign Court of Parliament* was,

was, and whom it consisted of in the Saxon Times; and for this I think it will be *needless* to give you any more than one Instance (which, as by the way, it does impreguably assert, That the Commons of England were an Essential and Constituent Part of the Saxon General Councils; so doth it, I think, *fully and clearly* refute and baffle that *novel Erroneous Notion*, viz. That there are no Commons to be found in the Saxon great Councils, nor any thing that tends towards the proof of the Commons of those Times to have had any share in making Laws in those Councils.) The memorable Instance, is the mighty Law of *Cythes*, which was made and ordained,

The Anonymous Author,
p. 20. in the
Margin.

Idem. p. 13. 14.

A Rege, Baronibus, & Populo.

Lambard de
præcis Angl.
Legibus
fol. 139
Spelman. Norm.
Tom. I. f. 61.

By the King, his Barons, and
his People.

Now William the First, in that little time of Rest he had from Foreign Wars with the French King, and his Neighbouring Princes to Normandy, did apply both it and himself in

Argumentum

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The Anonymous Author, p. 20. in the Margin.

Idem. p. 13. 14.

A Rege, Baronibus, & Populo.

*Lambard. de
priscis Angl.
Legibus. c. 8.
fol. 139
Spelm. Coroll.
Tom. 1. f. 6. 1.*

By the King, his Barons, and his People.

Now **William the First**, in that little time of Rest he had from Foreign Wars with the **French King**, and his *Neighbouring Princes* to **Normandy**, did apply both it and himself in

the setting of Laws here, which was done, not *ex plenitudine Regiæ Potestatis*; no, nor by the Norman Barons co-operating with that Power; but by the joint Advice, and unanimous Consent of the Grand Council of the Lords and wise Men of the Kingdom of England: To prove which, I shall produce the Testimony of Ancient Writers, whom no Man of Historical understanding can modestly impeach of Partiality, Faction, or Interest, in the Case in Question.

Lambard.
fol. 158.

- I. The first shall be taken out of the *Chronicle of Litchfield*, which tells us, That this William, in the fourth Year of his Reign at London, *Consilio Baronum suorum*, by the Advice of his Barons, caused a General Meeting, or Assembly, to be summoned, *Per universos Angliæ Comitatus, omnes Nobiles, Sapientes, & suâ Lege eruditos, ut eorum Leges & consuetudines audiret*; i. e. 'of all
'the Nobility, wise Men, and
'such as were skilled in the Laws,
'through all the Counties of
'England, to hear what their
Laws

‘Laws and Customs were. And after this was done, at the request of the English Community, he did *consent* that they should be *confirmed*; and so they were *ratified* and *kept* throughout all his Kingdom. The words are, *Ad preces Communitatis Anglorum, ex illo die Magna Authoritate venerata, & per universum Regnum corroborata & conservata sunt Leges Sancti Regis Edwardi, præ cæteris Regni Legibus.*

From this Testimony, I think it will plainly appear;

1. That the *Barones sui* here of *William*, cannot absolutely exclude the English, and only signify his Norman Barons, upon those Authorities and Reasons, I have already offered, to prove, That there were equally *Barones Francigeni & Angli nostri*, in his Time, (as you may see in my Argument under the third Question.)

H 4

2. That

2. That the King having, by the Counsel of these his Barons, summoned all the Nobility, wise Men, and those that were skilled in the Laws of the Land, throughout all the Counties of England, he then and there ratified and confirmed the Laws of St. Edward.

3. And to prove that this general Assembly of the Nobility, wise Men, and able Lawyers, were a PARLIAMENT, I shall now give you the Judgment of Mr. Selden, in his own words, which are these, viz. That,

Selden's Tit.
of Hon. f. 580.

'William the first, in the fourth
'Year of his Reign, or MLXX. (which
'was the Year wherein he first brought
'the Bishops and Abbots under the
'Tenure of Barony) *Consilio Baro-*
'*num suorum* (saith Hoveden (p) out
'of a Collection of Laws, written by
'Glanvill) *Fecit summoniri per uni-*
'*versos Consilatus Angliae, Anglos No-*
'*biles, & Sapientes, & sua Lege eru-*
'*ditas, ut eorum jura & Consuetudines*
ab

(p) In Hen. 2.
p. 343. E. Lond.

ab ipsis audiret. And twelve were returned out of every County, who shewed what the Customs of the Kingdom were, which being written by the hands of *Aldred* Arch-bishop of *York*, and *Hugo*, Bishop of *London*, were, with the Assent of the same Barons, for the most part, confirmed in that Assembly, which was a Parliament of that Time.

And a little lower, he saith, 'This might be the same Parliament, wherein the Controversy between *Thomas* Arch-bishop of *York* (he was consecrated after the death of *Aldred*, the same Year; and to the same Year this Controversy is attributed) and *Ulstan* Bishop of *Worcester*, touching certain Possessions, was determined.

So that from hence, 'tis easy to observe; That

1. There were English Men in this Council, by the words **ANGLOS NOBILES, &c.**
And,

2. Besides

2. Besides the Confirmation of the **Laws of St. Edward** here mentioned, it may reasonably be supposed, That the **Law for bringing the Bishops and Abbots under the Tenure of Barony**, was first made in this Parliament. And that
3. Likewise, the great Case between the Arch-bishop of **York**, and this same Bishop of **Worcester**, was here judicially determined. And,
4. If there were no English Men in this great Council, how then came it to pass that the Bishop of **York** and **London** were there, who certainly were Bishops in the **Saxon Times**? And it may also seem not improbable, that there was then an universal Consent among them, that these two Bishops should be intrusted to write down for them the English **Laws**.
5. And there is one great Thing more, to close withal, which is,
That

That at this Parliament, when the Saxon Laws were confirmed, there was a particular Law past in favour of the Normans, *qui ante adventum Guilielmi Cives fuerant Anglicani*, that they should be *participes Consuetudinum Anglorum*, quod ipsi dicunt Anhlote & Anscote, & persolvant secundum *Legem Anglorum*.

*Carta Regis
Wilhelm. apud
Lambard. c. 54.
fol. 170.*

The meaning of the words Anhlote and Anscote, as Sir Henry Spelman informs us, is *vulgo Scot & Lot*; that is, That every such French Man should not be charged with double Cares and Duties as a Foreigner, but that he should pay his easy share and proportion as any natural English Man. But then,

*Sir H. Spelm.
Gloss. verbo.
Anhlote. f. 31.*

II. It was in such a grand Assembly of wise Men of the Kingdom, where *Lanfranc* was elected to the See of *Canterbury*; for it was by the Assent of the Lords and Prelats, and of the whole People; that is to say, by the Parliament of England. This likewise was about the fourth Year

*Gervas. Doro-
bernsf. Act:
Pont. Cant.
fol. 1653, l. 5.*

*Year of the Conqueror; And an
Ancient Historian writes thus of
his Election: Eligentibus eum Se-
nioribus ejusdem Ecclesie cum Epif-
copis ac Principibus, Clero & Po-
pulo Anglia, in Curia Regis in As-
umptione Sancte Mariae.*

But another Contemporary Writer
gives it you in these words;

*Relat. Will-
helm. prim. ad
finem tract. de
Gavelkind à
Syl'a Taylor.
p. 194.*

*Rex mittens propter illum in Nor-
manniam, fecit eum venire in An-
gliam, eiq; Consensu & Auxilio
omnium Baronum suorum, omni-
umq; Episcoporum & Abbatum,
totiusque Populi Anglia commi-
sit ei Dorobernensem Ecclesiam.*

*Ex Cartulario
Coenobii West-
monasteriensis
in Biblioth.
Cotton. sub
effigie Fausti-
nz. A. 3.
Dugdal. Orig.
Juridic. fol. 16.*

III. There was another General
Council or Parliament held at
Westminster, in the fourteenth
Year of this King, where, by
his Charter, he confirmed the
Liberties of that Church, after
he had subscribed his own Name,
with the Sign of the Cross; ad-
ding many of the great Clergy,
and Temporal Nobility; and
instead of *cum multis alijs*, says,
multis

multis præterea illustrissimis Vi-
rum personis, & Regni Principi-
bus diversi ordinis omissis, qui si-
militer huic confirmationi piissimo
affectu Testes & Fautores fuerunt.

Hii autem illo Tempore à Regia po-
testate diversis Provinciis &
Arcebus, ad Universalem Sy-
nodum pro causis cujuslibet Christi-
anae Ecclesiae audiendis & tractan-
dis, ad præscriptam Celeberrimam
Synodum quod Westmonasterium dicitur, Convocati, &c. In

Provincia, i.e.
Comitatus.
Seld. Tit. Hon.
fol. 273. Spelm.
Gloss. 1 it. Pro-
vincia. f. 471.

Parliamen-
tum, Synodus
magna nuncu-
patur. Somne-
ri Gloss.

the Margin of the Book, there
is writ this Remarque, *Nota hic hos
omnes convocari à Rege suâ aucto-
ritate ad causas Religionis tractan-
das, tam Nobiles de Clero, quàm
Principes Regni, cum aliis inferioris
gradus, Convocatio quorum vi-
detur esse Parliamentum.*

IV. I think, by the general direction
of the Writs of this King, as also
by that of his Charters, (some
of which I have given you in
my Argument to your third Que-
stion, and therefore shall refer
you back to them) it is plainly
demonstrable, that William had

LL. Guilelm.
c. 55.

as well **English Barons** as **French Barons**; and that **his Barons** were always a part of his great **Council**, will hardly, I suppose, be denied by any. And that *one Law* of his, which may be called the **first MAGNA CHARTA** in the **Norman Times**, by which the King reserved to himself from the **free Men** of this **Kingdom**, nothing but their free **SerVICES** due to him according to **Law**; in the conclusion saith, That *they*, to wit, the **English**, shall *hold* and enjoy their **Estates** well, and in peace, free from all unjust **Exactions** and **Tallage**; and this *ratified* and *confirmed* by the **Common Council** of the *whole Kingdom*, which cannot be restrained to the **Norman Barons** only. So that herein is asserted the **Liberty** of the **English Free-men**, and of the **Representative Body** of the **Kingdom**.

These, I think, are **uncontrovertible Proofs** and **Evidences**.

I. That

1. That there were *General Councils*, or *Parliaments*, in this first *William's Time*.

2. That in these *Parliaments*, the *English Barons* as well as the *French Barons* were present.

3. And lastly, That there likewise was, as an *essential part* thereof,

1. The *Communitas Anglorum*, the *Community of English-men*.

2. Besides the *Bishops and Nobility*, there were the *Clerus & Populus*, the *Inferior Clergy and People of England*. And,

3. Not only the *Great Clergy*, and the *Temporal Nobility*, but the *Principes diversi Ordinis, a Regia potestate diversis Provinciis & Urbibus ad Universalem Synodum Convocati*, &c. viz. The *Chief and Principal Men of several Ranks and Degrees in Condition*, were summoned by *virtue of the King's Writ*, out of their several
re

respective Counties, Cities, and Burroughs, to this General Synod, or Parliament.

And, Sir, if this be so, I doubt not but that both your self, and all judicious and unbiaſſed Persons, (who have not resolved to espouse a Party, and who will not suffer themselves to be drawn aside by any novel unwarrantable Opinions, but will fairly submit their Judgments to clear and perspicuous Truth, when once it manifestly appears) I say, both you and they will certainly rest satisfied in these great and powerful Authorities, which I have here presented to publick view, and serious consideration: and I think these have sufficiently made out and proved, That

1. William the first, vulgarly called the Conqueror, did not get the Imperial Crown of England by the Sword, nor made an absolute Conquest of the Nation at his first entrance.
2. Nor that he abolished all the English Laws, or changed the whole

whole Frame and Constitution of the Saxon Government. But,

3. That the English had still Estates and Fortunes continued to them; and that it was a great mistake in any to affirm, That the King and his Normans divided and shared them all among them. As likewise,

4. In the fourth place, It has been a grand Error to ascertain, That there were no English Men in the Common Council of the whole Kingdom, in the Reign of William the Conqueror.

Now, Sir, as a corroborating Testimony, to explain and enforce what I already have said, I shall conclude my Discourse at present with a very memorable and studied Speech of a Person of great Learning and Abilities in his Time, collected out of a large Original Manuscript (which I have seen) of Sir Roger Owen, a very great Antiquary, that lived in the Time of King James; and one, who, as appears by that Book, was a Man not
 I only

only of wonderful Knowledge, and admirable Observation in the Records and Histories of his own Nation, but also in those of Foreign Countries.

This was a Speech of the *then* Lord *Whitlock*, in *Novemb. 1650.* upon the *House's* long and smart Debate touching the *Act* for putting all the *Books* of Law, and the *Process* and *Proceedings* in *Courts* of *Justice* into the *English Tongue* : In which *Debate* some spake in *derogation* and *dishonour* of the *Laws* of *England*.

For some vindication whereof, and for satisfying some Mistakes, he delivered his Opinion in the House to this effect.

It is now *newly printed*, in *Mr. Whitlock's MEMORIALS OF THE ENGLISH AFFAIRS, &c.* and is here truly transcribed.

Mr.

Mr. Speaker ;

THe Question upon which your
present Debate ariseth, is of no
small moment, nor is it easily or speedily to be determined ; for it comprehends no less than a *total Alteration* of the *Frame* and *Course* of *Proceedings* of our *Law*, which have been established and continued for so many Years.

I should not have troubled you with any of my weak Discourse, but that I apprehend some Mistakes and *dis honour* to the *Law* of *England*, if passed by without any Answer, may be of ill consequence ; and having attended to hear them answered by others, who are not pleased to do it ;

I held my self the more engaged, in the *duty* of my *Profession*, to offer to your Judgment (to which I shall always submit) what I have met with, and do suppose not to be impertinent, for the rectifying of some Mistakes which are amongst us.

' A worthy Gentleman was pleased
 ' to affirm, with much confidence, (as
 ' he brought it in upon this Debate)
 ' That the **Laws** of England were in-
 ' troduced by **William the Conqueror**,
 ' as (among other Arguments, he as-
 ' serted) might appear by their being
 ' written in the French Tongue.

' In his first Assertion, that our
 ' **Laws** were introduced by **William**
 ' the **Conqueror** out of France, I shall
 ' acknowledg, that he hath several
 ' both **Forreign** and **Domestick** Au-
 ' thors, whom he may follow therein ;
 ' The **Forreign** Authors are, **Jovius**,
 ' **Æmilius**, **Bodine**, **Hottoman**, **Dymo-**
 ' **thus**, **Volateran**, **Berault**, **Berkley**,
 ' **Choppinus**, **Uspargensis**, **Malines**, and
 ' **Polidore**, who affirm this erroneous
 ' piece of Doctrine ; but the less to
 ' be regarded from them, because they
 ' were strangers to our **Laws**, and
 ' took up upon trust what they pub-
 ' lished in this Point.

' Of our own Countrymen, they
 ' have **Paris**, **Malmesbury**, **Matthem**
 ' **Westminster**, **Fox**, **Cosins**, **Twyne**,
 ' **Heyward**, **Milles**, **Fulbeck**, **Cowell**,
 ' **Ridley**,

'Ridley, Brown, Speed, Martyn, and
'some others.

'All of them affirm, That the Laws
'of England were introduced by Wil-
'liam the Conqueror: But their Er-
'rors are refuted by Sir Roger Owen in
'his *Manuscript*; who saith, That Ro-
'ger Wendover, and Matthew Paris,
'were the first Monks that hatched these
'golden Eggs.

'I shall endeavour to shew you,
'That the Original of our Laws is
'not from the French; that they were
'not introduced by William the Con-
'queror out of Normandy: And I
'shall humbly offer to you my Answer
'to some of their Arguments, who are
'of a contrary opinion.

'Polydore, Hist. Angl. l. 9. affirm-
'eth, That William the Conqueror
'first appointed Sheriffs and Justices
'of the Peace, erected Tenures,
'brought in Trials by twelve Men,
'and several other Particulars of our
'Laws.

'For Sheriffs, their name Scire
'Reeve, shews them to be of the Sar-
'on Institution. And our Histories
'mention the division of Shires by

'King *Alphred*; but in truth, it was
'much more ancient.

'And it is apparent by our *Books*
'and *Records*, some whereof are in
'the *Hustings* of *London*, and in the
'*Tower*, that the same things were
'in use here long before the Time of
'King *Will. I.*

'Sir *Roger Owen* shews at large,
'That *Liberty* of *Seisin*, *Licenses*, or
'*Fines* for *Alienation*, *Daughters* to
'inherit, *Trials* by *Juries*, *Abjura-*
'*tions*, *Utlaries*, *Coroners*, disposing
'of *Lands* by *Will*, *Eseheats*, *Gaols*,
'*Writs*, *Wrecks*, *Warranties*, *Catalla*
'*Fellorum*, and many other parts of
'our *Law*, and the *Forms* of our
'*Parliaments* themselves, were here
'in being before the Time of Duke
'*William*.

'Agreeing hereunto are many of
'our *Historians*, and learned *Anti-*
'*quaries*.

'But it is objected, That in the
'*Grand Customary* of *Normandy*,
'the *Laws* are almost all the same
'with ours of *England*, and the form of
'their *Parliaments* the same with
'ours.

'That

That the *Writer* of the *Preface* to
that *Book*, saith, It contains only the
Laws and Customs which were
made by the Princes of *Norman-*
dy, by the *Council* of their *Pre-*
lates, *Earls*, *Barons*, and other *Wise*
Men; which shews the forms of
their *Parliaments* to be the same
with ours, and the *Laws* in that
Book to be the proper *Laws* of
Normandy, and ours to be the same;
therefore they argue, that our *Laws*
were introduced from thence by
William the Conqueror.

This will be fully answered, if
that *Grand Customary* of *Norman-*
dy was composed in our King *Edw. I.*
his Time, (as good Authors hold it
was) then it cannot be, That our
Laws or *Parliaments* could be de-
rived from thence.

These Learned Men say, That this
Customary was a *meer Translation* of
our *Law Book*, *Glanvill*; as the
Book of *Regia Majestas* of the
Laws of *Scotland* is; and the like
of the *Laws* of *Burgundy*.

Argumentum

‘ They farther add, That the first
 ‘ establishing of the Customary of
 ‘ Normandy, was in Hen. 1. his Time;
 ‘ and afterwards again, about the be-
 ‘ ginning of Edw. 2. his Time.

‘ If the Laws in the Customary
 ‘ were introduced there from England,
 ‘ it will then be granted, that the Laws
 ‘ of England were not introduced here
 ‘ by William the Conqueror; But I
 ‘ think it very clear, that their Laws
 ‘ were brought to them out of Eng-
 ‘ land; and then you will all agree to
 ‘ the conclusion.

‘ Our King Hen. 1. conquered Nor-
 ‘ mandy from his Brother Robert, and
 ‘ was a Learned King, as his Name
 ‘ Beauclerke testifies; whom Ivo calls,
 ‘ an especial Establisher of Justice. Se-
 ‘ querius relates, That this King esta-
 ‘ blished the English Laws in Nor-
 ‘ mandy.

‘ Herewith do agree *Gulielmus Bri-*
 ‘ *to, Armoricus, Rutclurius*, and other
 ‘ French Writers; who mention also,
 ‘ That the Laws in the Customary of
 ‘ Normandy, are the same with the
 ‘ Laws collected by our English King
 ‘ Edward the Confessor, who was be-
 ‘ fore the Conqueror. An

‘ An additional Testimony hereof,
‘ is out of *William de Alenſo Revile*,
‘ who, in his *Comment* upon the Cu-
‘ ſtumary, ſaith, That all the *Laws* of
‘ *Normandy* came from the *Engliſh*
‘ *Laws* and *Nation*.

‘ In the *Cuſtumary*, there is a Chap-
‘ ter of *Rampes*, or *Diſtreſſes*, and
‘ decreed, That one ſhould not bring
‘ his *Action* upon any *Seiſure*; but
‘ from the Time of the *Coronation* of
‘ *King Richard*; and this muſt be our
‘ *King Richard* the firſt, becauſe no
‘ *King of France* was in that Time of
‘ that Name; and the words *Rampes*
‘ and *Withernams*, were *Saxon*
‘ words, taken out of the *Engliſh*
‘ *Laws*, ſignifying a *Pawn*, or *Diſtreſſ*,
‘ and in the ſame ſence are uſed in the
‘ *Cuſtumary*.

‘ That which puts it further out of
‘ ſcruple, is, That there are yet ex-
‘ tant the *Manuſcripts* themſelves of
‘ the *Saxon Laws*, made in the *Par-*
‘ *liamentary Councils* held by them
‘ here; which are in the *Language*
‘ and *Character* of thoſe Times; and
‘ contain in them many of thoſe things
‘ which are in the *Norman Cuſtumary*.

‘ It

‘It is no improbable Opinion, That
 ‘there was a former Establishment of
 ‘our Laws in Normandy, before the
 ‘Time of Hen. 1. and that it was by
 ‘Edward the Confessor, who (as all
 ‘Writers of our History agree) was a
 ‘great Collector and Compiler of our
 ‘English Laws.

‘He lived a long time with his Kins-
 ‘man Duke William in Normandy,
 ‘who was willing to please the Con-
 ‘fessor, in hopes to be appointed by
 ‘him to be his Successor; wherein
 ‘the Duke’s Expectation did not fail
 ‘him.

‘The Confessor having no Chil-
 ‘dren, and finding Normandy with-
 ‘out a settled Government, and want-
 ‘ing Laws, advised with his Kinsman,
 ‘Duke William, to receive from him
 ‘the Laws of England, which he had
 ‘collected, and to establish them in
 ‘Normandy; which Duke William
 ‘and his Lords readily accepted, for
 ‘the good of their People; and there-
 ‘by obliged the Confessor.

‘Another proof hereof is, That
 ‘such Laws as the Normans had be-
 ‘fore the Time of Duke William,
 ‘were

were different from those in the Customary, and from the English Laws.

As their Law, That the Husband should be hanged if his Wife were a Thief, and he did not discover it : The meaner People were as Slaves, and the like : and the Trial of Theft by Ordeil, which then was not in England.

Wigorniensis reports, That the Normans who came in with Queen Emma, the Wife of Ethelred, were so hated of the English, for their injustice and false Judgment, that in the Time of King Canutus, they were, for this cause, banished ; and it is the less probable, that they being so unjust themselves, should introduce so just Laws as ours are.

Between the Conquest of Normandy by Rollo, and the Invasion of England by Duke William, there were not above 160 Years ; that of Normandy was about Anno 912. that of England Anno 1060.

It is not then consonant to Reason, that those Normans, Pagans, a rough Martial People, descended from

'from so many Barbarous Nations,
 'should, in the time of 150 Years,
 'establish such excellent Laws among
 'themselves, and so different from
 'the French Laws, among whom
 'they were, and all parts in the World
 'except England.

'And such Laws which were not
 'only fit for their Dukedom and small
 'Territory, but fit also for this King-
 'dom, which in those days was the
 'second in Europe for Antiquity and
 'Gloory, by confession of most Foreign
 'Historians.

'If we will give credit to their own
 'Authors, this Point will be sufficient-
 'ly evinced by them. These words
 'are in the Proem of the Customary,
 'which is entituled Descriptio Nor-
 'mannie.

'Hucusque Normannica CONSUE-
 'TUDINES LATOREM sive Da-
 'torem SANCTUM EDWARDUM
 'Angliæ Regem, &c.

'The same is witnessed by Chronica
 'Chronicorum, That St. Edward, King
 'of England, gave the Laws to the
 'Normans, when he was long har-
 'boured there.

And

‘ And that he made both the *Laws*
‘ of *England* and *Normandy*, appears
‘ sufficiently by the conformity of
‘ them, for which he cites several *Par-*
‘ ticulars, as of *Appeals*, and the
‘ *Custom* of *England*, *ad probandum*
‘ *aliquid per credentiam duodecim ho-*
‘ *minum vicinorum*, which, he saith, re-
‘ mained in *Normandy* to that day.

‘ *Polydore* forgetting himself what
‘ he wrote in another place, saith, of
‘ *King Henry the Seventh*, that when
‘ a Doubt was made upon the Proposal
‘ of *Marriage* of his *Daughter* to
‘ *Scotland*, that thereby *England*
‘ might in time be subject unto *Scot-*
‘ *land*.

‘ The King answered, *No*; and
‘ that *England*, as the Greater, will
‘ draw it to *Scotland* being the less,
‘ and incorporate it to the *Laws* of
‘ *England*, as (saith the *Historian*)
‘ it did *Normandy*, though the owner
‘ thereof was *Conqueror* of *Eng-*
‘ *land*.

‘ And *Sir Roger Owen*, in his *Manu-*
‘ script, affirms, That there is not any
‘ of our *Historians*, that lived in the
‘ space of 200 Years, immediately af-
‘ ter

ter the Conquest, which doth describe our *Laws* to be taken away, and the *Norman Custom* introduced by the Conqueror.

Some of them (and not improbably) mention the alteration of some part of them, and the bringing in some *Norman Customs*, effectual for the keeping of the Peace.

There is yet behind the great *Argument* most insisted on, and often urged by the Gentlemen of another Opinion, which is the Title of *William*, who is called the Conqueror; from whence they conclude, That by his Conquest he changed the *Laws* and Government of this Nation, and that his Successors reckon the beginning of their Reigns from his Conquest.

To this is answered, That *a posse ad esse non valet Argumentum*: the Conquering of the Land is one thing, the introducing of new *Laws* is another thing; but there is direct proof to the contrary of this Argument.

Duke

‘Duke William never Sir-named
 ‘himself the Conqueror, nor was so
 ‘called in his life-time, as may appear by
 ‘all the Letters Patents and Deeds
 ‘that he made, wherein he is called
 ‘*Guilielmus Rex, Dux, &c.* never Con-
 ‘questor; and our *Ancient Historians*
 ‘give him the same Titles, and not
 ‘that of Conqueror.

‘In the Title of *Nubrigenfis’s* Book,
 ‘he is Sirnamed *William the Bastard.*
 ‘*Malmsbury* calls him *William the*
 ‘*First*; *Hoveden*, *William the El-*
 ‘*der.*

‘*Adam de Monmoth* saith, That
 ‘1. Ed. 3. this word (Conquest) was
 ‘found out to denote and distinguish
 ‘the certain *Edward*; because two
 ‘of the same name were *Predecessors*
 ‘to this King, and to the Conqueror,
 ‘who claimed the Crown as Heir to
 ‘*Edward the Confessor*, but (saith he)
 ‘we call him the Conqueror, for that
 ‘he *overcame Harold.*

Duke William himself claimed to
 ‘be King of England as *Successor*,
 ‘and *Adopted Heir* of the *Confessor*,
 ‘by his *Will*, and *Harold’s* renounce-
 ‘ing of his Title by Oath.

The

‘The Register of *St. Albans*, *Matth.*
 ‘*Paris*, and others, attest, That the
 ‘Barons of *England* did homage to
 ‘him as *Successor*; and he relied on
 ‘them in his *Forreign Wars*, and the
 ‘Check given to him by the *Kentish*
 ‘Men, and the Forces gathered by the
 ‘Abbot of *St. Albans*, brought him to
 ‘engage to confirm the *Laws* of the
 ‘*Confessor*; and as his *Successor* by
 ‘legal Right, they admitted him to
 ‘be their King.

‘*Volaterus* writes, That he was made
 ‘Heir to the *Confessor*, and was *Un-*
 ‘cle to him.

‘Another affirms, That *Edward* by
 ‘his *Will* left *England* to him.

‘*Paulus Emilius*, and *Fulgasius*,
 ‘are to the same purpose.

‘Pope *Alexander* the 11th, sent him
 ‘a *Banner*, as *Witness*, that with a
 ‘safe *Conscience* he might expel *Ha-*
 ‘rold the *Tyrant*, because the *Crown*
 ‘was due to him by the *Confessor*’s
 ‘*Will*, and by *Harold*’s *Oath*.

Agree-

Agreeable hereunto are Gemiticenis, Walsingham, Malmesbury, Huntington, Ingulphus, Paris, Pike, Wender, Gaxton, Gisburn, and others.

The Antient Deeds of the Abby of Westminster (which were sometime in my Custody) do prove this.

King William, in his Charter to them, sets forth his own Title to the Crown, thus, *Beneficio Concessionis & Cognati mei gloriosi Regis Edwardi.*

In his second Charter, dated Anno 15. of his Reign, he saith, in honour of King Edward, who made me his Heir, and adopted me to Rule over this Nation.

In his Charter, dated 1088. of the Liberties of St. Martins the Great, in the Manuscript thereof, are these words;

In Example of Moses who built the Tabernacle, and of Solomon who built the Temple,

Ego Guilielmus Dei dispositione, & consanguinitatis Hereditate Anglorum Basileus, &c.

K

The

‘ The Charter of Hen. 1. his Son,
 ‘ to this Abby, in honour of Edward
 ‘ my Kinsman, who adopted my Father
 ‘ and his Children to be Heirs to this
 ‘ Kingdom, &c.

‘ In another Charter of Hen. 1. in
 ‘ the Book of Ely, he calls himself the
 ‘ Son of King William the Great,
 ‘ who by Hereditary Right succeeded
 ‘ King Edward.

‘ It is true, as to his pretence of Ti-
 ‘ tle by the Will of the Confessor,
 ‘ Mathew Paris objecteth, That the
 ‘ Devise was void, being without the
 ‘ consent of the Barons.

‘ To which may be answered, That
 ‘ probably the Law might be so in
 ‘ Hen. 3. Time, when Paris wrote, and
 ‘ was so taken to be in the Statute of
 ‘ Carlisle, and in the Case of King John.

‘ But at the time of Duke William’s
 ‘ Invasion, the Law was taken to be,
 ‘ That a Kingdom might be transfer-
 ‘ red by Will.

‘ So was that of *Sixtus Rufus*, and
 ‘ *Asia* came to the *Romans* by the
 ‘ Will of King *Attalus*; the words by
 ‘ *Annaeus Florus* are, *Populus Romanus*
 ‘ *Bonorum meorum HÆRES esto.*

‘ *Bithinia* came to the *Romans* by
 ‘ the last Will of their King *Nicome-*
 ‘ *des*, which is remembred by *Utropius*,
 ‘ together with that of *Libia*.

‘ *Cicero* in his Oration tells us, That
 ‘ the Kingdom of *Alexandria*, by the
 ‘ last Will of their King, was devolved
 ‘ to *Rome*.

‘ And *Prasutagus Rex Icenorum* in
 ‘ *England*, upon his Death-bed, gave
 ‘ his Kingdom to the Emperor *Nero*.

‘ As to Examples in this Point at
 ‘ Home, This King *William the first*,
 ‘ by his Will, gave *England* to his
 ‘ younger Son *William Rufus*.

‘ King *Stephen* claimed by the Will
 ‘ of *Henry the first*.

‘ King Henry the eight had Power,
 ‘ by Act of Parliament, to order the
 ‘ Succession of the Crown as he plea-
 ‘ sed, by Will.

‘ And the Lords of the Council, in
 ‘ Queen Mary’s Time, wrote to her,
 ‘ That the Lady Jane’s Title to the
 ‘ Crown, was by the Will and Letters
 ‘ of Edward the sixth.

‘ As the case of Hen. 8. was by
 ‘ Act of Parliament; so Duke Wil-
 ‘ liam, after he had conquered Ha-
 ‘ rold, was, by the general consent of
 ‘ the Barons and People of England
 ‘ accepted for their King; and so his
 ‘ Title by Will confirmed.

‘ And he both claimed, and govern-
 ‘ ned the Kingdom, as an Heir and
 ‘ Successor, confirmed their Antient
 ‘ Laws, and ruled according to them:
 ‘ This appears by *Chronica Chronico-*
 ‘ *rum*, speaking of William the Ba-
 ‘ stard, King of England, and Duke
 ‘ of Normandy, he saith, That where-
 ‘ as, as St. Edward had no Heir of
 ‘ England, William having conquered
 ‘ Harold, the Usurper obtained the
 ‘ Crown

‘Crown under this Condition, That
‘he should inviolably observe those
‘Laws given by the said Edward.

‘It is testified likewise, by many of
‘our *Historians*, That the Ancient
‘Laws of England were confirmed by
‘Duke *William*.

‘*Jornalensis* saith, That out of the
‘*Merchen-Lage*, *West-Saxon-Lage*, and
‘*Dane-Lage*, the Confessor composed
‘the Common Law, which remains
‘to this day.

‘*Malmesbury*, who lived in Duke
‘*William*’s Time, saith, That the
‘Kings were sworn to observe the
‘Laws of the Confessor, so called,
‘(saith he) because he observed them
‘most religiously.

‘But to make this Point clear out
‘of *Ingulphus*, he saith, in the end of
‘his *Chronicle*, “I *Ingulphus* brought
“with me from *London*, into my Mo-
“nastery, (*Crowland*) the Laws of
“the most Righteous King *Edward*;
“which my Lord King *William* did

“ command, by his Proclamation, to
 “ be Authentick and Perpetual, and to
 “ be observed throughout the whole
 “ Kingdom of *England*, upon pain of
 “ most heinous punishment.

“ The *Lieger-Book* of the Abby of
 “ *Waltham*, commends Duke *William*
 “ for restoring the *Laws* of the Eng-
 “ lish-men out of the *Customs* of their
 “ Country.

“ *Radburn* follows this Opinion, and
 “ these *Laws* of *Edward the Confes-*
 “ *sor*, are the same in part which are
 “ continued in our GREAT CHAR-
 “ TER of LIBERTIES.

“ A Manuscript entituled, *De Gestis*
 “ *Anglorum*, saith, That at a *Parlia-*
 “ *ment* at *London*, 4. *W. 1.* the Law-
 “ yers also present, that the King might
 “ hear their *Laws*, he established *Saint*
 “ *Edward's Laws*, they being former-
 “ ly used in King *Edgar's* Time.

“ There is also mention of the *twelve*
 “ Men out of every County, to deliver
 “ truly the *Estate* of their *Laws* : The
 “ same is remembred by *Selden's History*
 of

‘ of Tythes, and Titles of Honour, and
 ‘ in a *Manuscript Chronicle* bound with
 ‘ the Book of *Ely* in Cotton’s Library.

‘ One of the worthy Gentlemen,
 ‘ from whom I differ in Opinion, was
 ‘ pleased to say, That if *William the*
 ‘ *Conqueror* did not introduce the
 ‘ *Laws of Normandy* into England,
 ‘ yet he conceives our *Laws* to be
 ‘ brought out of France hither, in the
 ‘ time of some other of our *Kings*,
 ‘ who had large Territories in France,
 ‘ and brought in their *Laws* hither; else
 ‘ he wonders how our *Laws* should
 ‘ be in French.

‘ Sir, I shall endeavour to satisfy his
 ‘ Wonder therein by and by; but,
 ‘ first, with your leave, I shall offer to
 ‘ you some *Probabilities* out of the
 ‘ *History*, That the *Laws* of England
 ‘ were by some of those *Kings* carried
 ‘ into France, rather than the *Laws* of
 ‘ France brought hither.

‘ This is expressly affirmed by *Paulus*
 ‘ *Jovius*, who writes, That when the
 ‘ English *Kings* reigned in a great part

‘ of France, they taught the French
‘ their Laws.

‘ *Sabellicus*, a *Venetian* Historian,
‘ writes, That the *Normans*, in their
‘ Manners, and Customs, and Laws,
‘ followed the English.

‘ *Polydore Virgil*, contradicting him-
‘ self in another place than before ci-
‘ ted, relates, That in our King Hen. 6.
‘ Time, the Duke of *Bedford* called to-
‘ gether the *Chief Men* of all the *Cz-*
‘ *ties* in *Normandy*, and delivered in
‘ his Oration to them, the many Be-
‘ nefits that the English afforded them,
‘ especially in that the English gave to
‘ them their Customs and Laws.

‘ By the Chronicle of *Eltham*, l. 5.
‘ sent to *Cane* in *Normandy*, not only
‘ Divines, but English Common Law-
‘ yers, by the agreement at *Troys*.

‘ So there is much more probability
‘ that the Laws of England were
‘ introduced into France and *Nor-*
‘ *mandy*, than that the Laws of *Nor-*
‘ *mandy*, or any other part of France,
‘ were

were introduced into England.

‘If the Normans had been Conquerors of England, as they were not; but their *Duke* was only a Conqueror of *Harold*, and received as hereditary King of England; yet is it not probable they would have changed our Laws, and have introduced theirs; because they did not use to do so upon other Conquests.

‘The Normans conquered the Isles of *Guernsey* and *Jersey*, yet altered not their Laws, which in their local Customs are like unto ours.

‘The like they did in *Sicily*, *Naples*, and *Apulia*, where they were Conquerors; yet the Ancient Laws of those Countries were continued.

‘I hope, Mr. Speaker, I have, by this time given some satisfaction to the Worthy Gentlemen who differed from me, that the Laws of England were not imposed upon us by the Conqueror, nor brought over hither, either out of Normandy, or any other part of France, but are our Ancient Native Laws.

I must now come to indeavour also
 ' to satisfy the Wonder; If they were
 ' *not brought* out of Normandy, or
 ' *some other part* of France, how come
 ' they then to be written in the French
 ' Language!

' Sir, It is to me an Argument, That
 ' because they are written in French,
 ' therefore they were not brought in
 ' by Duke William the Norman; for
 ' the French Tongue was not the Lan-
 ' guage of Duke William, and the
 ' Normans.

' They had not been then in Duke
 ' William's Time, past four *descents* in
 ' that part of France; and it is impro-
 ' bable, that they, in so short a Time,
 ' should lose their *Native Tongue*, and
 ' take up, and use the Language of
 ' another Countrey, which was con-
 ' quered by them.

' The Normans came from Sweden,
 ' Gothland, Norway, and Denmark,
 ' between whose Languages, and with
 ' the *High-Dutch*, their Neighbours;
 ' there is a great affinity; but between
 ' these Languages, and the French,
 ' there is none at all. Ul-

‘*Ulpilus* holds, that the *Dutch*
‘Tongue came from the *Goths*. *For-*
‘*nandus* saith, The *Goth’s* Tongue
‘came from the *Dutch*. All agree,
‘That between those Languages and
‘the *French* there is no affinity.

‘It is so improbable, that Duke
‘*William* should cause our *Laws* to
‘be in *French*, that when he pro-
‘claimed them, (as *Ingulphus* testifies)
‘he commanded that they should be
‘used in the same Language they were
‘written (in *English*) to his Justices,
‘and gives the Reason, Left by Igno-
‘norance we should happen to break
‘them.

‘But it hath been further objected,
‘If Duke *William* did not cause our
‘*Laws* to be written in *French*, what
‘then should be the Reason, that the
‘*Grand Custumary* of his *Norman*
‘*Laws* were written in the *French*
‘Tongue?

‘The Reason thereof is given, That
‘the *Normans*, being a Rough and
‘*Martial* People, had few Clerks
amongst

‘ amongst them, but made use of those
‘ French, amongst whom they then
‘ lived, and whose Language they
‘ then began to be acquainted with,
‘ and to understand.

‘ But when they were in England,
‘ they had not so much use of those
‘ Clerks, and that Language, but more
‘ of the English.

‘ And probably it might be, that
‘ the Confessor had been so long in
‘ France, that he was more Master of
‘ that Language than the Normans,
‘ and that the Normans understood
‘ that Language better than the Eng-
‘ lish, and thereupon the Customary
‘ was written in the French Tongue.

‘ But it doth not therefore follow
‘ that Duke William must cause the
‘ English Laws to be written in the
‘ French Tongue: but it is more like-
‘ ly, that he might cause them to be
‘ continued in their Native Idiom,
‘ which was much nearer in affinity to
‘ his own Northern Language than the
‘ French was.

That

‘ That the French Tongue was not
‘ introduced, as to our Laws and
‘ other things, by Duke William into
‘ England, appears, in that the French
‘ was in great use with us here, both
‘ before, and some-time after his Inva-
‘ sion.

‘ Beda affirms, That in Anno 640,
‘ it was the Custom of England to
‘ send their Daughters into the Mona-
‘ steries of France, to be brought up
‘ there; and that Ethelbert, Ethelwulf,
‘ Ethelred, and other Saxon Kings,
‘ married into the Royal Blood of
‘ France.

‘ Glabor notes, That before the Time
‘ of Duke William, the Normans and
‘ English did so link together, that
‘ they were a Terror to Forreign Na-
‘ tions.

‘ Ingulphus saith, That the Saxon
‘ Hand was used until the Time of
‘ King Alfred, long before the Time
‘ of Duke William; and that he be-
‘ ing brought up by French Teachers,
‘ used the French Hand.

And

‘ And he notes many Charters of
 ‘ Edward and Edgar, written in the
 ‘ French Hand, and some Saxon mixt
 ‘ with it, as in the Book of Dooms-
 ‘ day.

‘ That Edward the Confessor, by
 ‘ reason of his long being in France,
 ‘ was turned into the French Fashion,
 ‘ and all England with him.

‘ But that William the first com-
 ‘ manded our Laws to be written in
 ‘ the English Tongue, because most
 ‘ Men understood it, and that there
 ‘ be many of his Patents in the Sar-
 ‘ on Tongue.

‘ I suppose we may be satisfied,
 ‘ that William the first did not cause
 ‘ our Laws to be written in French,
 ‘ though the French Language was
 ‘ much in use here before his Time.

‘ And if he did not introduce the
 ‘ French Language into England, the
 ‘ Argument falls, That because they
 ‘ are written in French, therefore
 ‘ he brought them in.

But,

‘But, Sir, I shall offer you some
 ‘Conjectures, how it came that our
 ‘*Latos* were written in French, which
 ‘I suppose might be begun in the Time
 ‘of our K. *Hen. 2.* who was a French-
 ‘man born, and had large Territories
 ‘and Relations in France, and with
 ‘French-men, of whom great Num-
 ‘bers came into England; and they
 ‘and the English matched, and lived
 ‘together, both here, and in some
 ‘parts of France.

‘Hence it came to pass, (as *Giral-*
 ‘*dus Cambrensis* notes) that the Eng-
 ‘lish Tongue was in great use in Bur-
 ‘deux, and in other parts of France,
 ‘where the English-men were resident
 ‘and conversant; the like was, when
 ‘the French-men were so conversant
 ‘in England.

‘*Mathew Westminster* writes, That
 ‘he was in hazard of losing his Liv-
 ‘ing, because he understood not the
 ‘French Tongue: and that in King
 ‘*Hen. 2.* and King *Stephen’s* Time,
 ‘who had large Dominions in
 ‘France; their Native Country, and the

‘the Number of French, and of
 ‘Matches with them, was so great,
 ‘that one could hardly know who was
 ‘French, and who English.

‘*Gervasius Tilsberiensis* observes the
 ‘same: And *Brackland* writes, That in
 ‘*Rich. 1.* Time, preaching in England,
 ‘was in the French Tongue. Probably
 ‘Pleading might be so likewise; and
 ‘in King *John’s* Time, French was ac-
 ‘counted as the *Mother Tongue*.

‘There are scarce any Deeds of our
 ‘Kings in French before *Hen. 2.* his
 ‘Time, the most are in *Ed. 1.* and
 ‘*Ed. 2.* their Time.

‘That our *Laws* were pleaded and
 ‘written in French before *Edw. 3.* his
 ‘Time, appears by the *Stat. 36. Edw.*
 ‘*3. c. 13.* which recites the *Mischief*
 ‘of the Law being in French; and
 ‘enacts, That the Law shall thereafter
 ‘be pleaded in English, and enrolled in
 ‘Latin.

‘This is one ground of the mistaken
 ‘Opinion of *Lambard*, *Polydore*,
 ‘*Speed*, and others, That Duke *Will-*
 ‘*iam* brought in hither both the *Rom-*
 ‘*an Laws* and Language; which I

ap-

‘apprehend to be fully answered, and
‘the contrary manifested by what I
‘have said before on this Subject.

‘*Polydore's* Mistake may appear the
‘more, when he asserts, that by the
‘*Stat. 36. Edm. 3.* Matters are to be
‘enrolled in English, which is con-
‘trary to the express Words, that they
‘are to be enrolled in Latin.

‘Many of our Law Books were
‘written in Latin before the Norman
‘Invasion, as appears by the *Ancient*
‘*Rolls of Mannors*, and *Court Barons*,
‘and our Old Authors, *Glanvill*, *Brac-*
‘*ton*, *Tilbury*, *Hengham*, *Fleta*, the
‘*Register*, and the Book of *Entries*.

‘The Records at *Westminster* and
‘the *Tower*, and other Records yet
‘extant, are in Latin; and many Books
‘of our Law in Latin, were transla-
‘ted into English, about *Edm. 3.* his
‘Time.

‘Most of our Statutes, from *Edm. 1.*
‘his Time, till about the middle of
‘*Hen. 7.* his Reign, are enrolled in
‘L French,

'French, notwithstanding this Stat.
'36. Edw. 3. except the Stat. 6. R. 2.
'& some others in Latin

'B. 2. D. 4. D. 15. and D. 6. used to
'write their Letters in French: and
'some of our Pleadings are in
'French, and in the Common Pleas to
'our Time

'But, Sir, our Law is, *Lex non*
'*Scripta*. I mean our Common Law,
'and our Statutes, Records, and
'Books, which are written in French;
'are no Argument that therefore the
'Original of our Law is from France:
'but they were in being before any of
'the French Language was in our
'Laws.

'*Fortescue* writes, That the English
'kept their Accounts in French, yet
'doubtless they had Accounts here,
'and Revenues before the French Lan-
'guage was in use here.

'My Lord Cook saith, That the
'Conqueror taught the English the
'Roman Terms of *Hawking*, *Hunt-*
ing,

*ing, and Gaming, &c. yet no doubt
*but that these Recreations were in
*use with us before his Time.

*And tho' Duke William or any
*other of our Kings before, or after
*his Time, did bring in the French
*Tongue amongst us, yet that is no
*Argument, that he or they did change,
*or introduce our Laws, which un-
*doubtedly were here long before
*those Times; and some of them,
*when the French Tongue was so
*much in use here, were translated;
*written, and pleaded, and recorded,
*in the French Tongue, yet remained
*the same Law still.

*And from the great use of the
*French Tongue here, it was, That
*the Reporters of our Law Cases
*and Judgments, which were in those
*Times, did write their Reports in
*French, which was the pure French
*in that Time; tho' mixt with some
*words of Art.

*Those Terms of Art were taken;
*many of them, from the Saxon
L 2 Tongue;

Tongue, and may be seen by them
 yet used; and the Reporters of later
 Times, and our Students at this
 day use to take their Notes in
 French, following the Old Reports
 which they had studied, and the Old
 French, which, as in other Languages,
 by time came to be varied.

I shall not deny, but that some
 Monks in elder Times, and some
 Clerks and Officers might have a Cunning,
 for their private Honour and
 Profit, to keep up a Mystery, to
 have as much as they could of our
 Laws, to be in a kind of Mystery
 to the Vulgar, to be the less understood
 by them: But the Councillors
 at Law, and Judges, can have no
 advantage by it; but perhaps it
 would be found, that the Law, being
 in English, and generally more
 understood, yet not sufficiently, would
 occasion the more Suits.

And possibly there might be something
 of the like nature as to the
 Court Hand; yet if the more Common
 Hands were used in our Law-
 writings,

‘writings, they would be the more
‘subject to change; as the English,
‘and other Languages are, but not
‘the Latin.

‘Surely the French Tongue used in
‘our Reports and Law Books, de-
‘serves not to be so enviously decried,
‘as it is by *Polydore, Aliot, Daniel,*
‘*Hottoman, Cowell,* and other Censu-
‘rers.

‘But, *Mr. Speaker,* if I have been
‘tedious, I humbly ask your pardon,
‘and have the more hopes to obtain
‘it from so many worthy English Gen-
‘tlemen, when that which I have
‘said, was chiefly in vindication of
‘their own Native Laws, unto which
‘I hold my self the *more obliged* by the
‘Duty of my *Profession*; and I ac-
‘count it an honour to me to be a
‘Lawyer.

‘As to the Debate, and Matter of
‘the Act now before you, I have deli-
‘vered no Opinion against it, nor do
‘I think it reasonable, that the gene-
‘rality of the People of England
‘L 3 should,

Tongue, and may be seen by them
 yet used ; and the **Reporters** of later
 Times, and our **Students** at this
 day use to take their **Notes** in
French, following the **Old Reports**
 which they had studied, and the **Old**
French, which, as in other **Langua-**
ges, by time came to be varied.

I shall not deny, but that some
Monks in elder Times, and some
Clerks and **Officers** might have a **Cun-**
ning, for their private **Honour** and
Profit, to keep up a **Mystery**, to
 have as much as they could of our
Laws, to be in a kind of **Mystery**
 to the **Vulgar**, to be the less under-
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 at **Law**, and **Judges**, can have no
 advantage by it ; but perhaps it
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‘said, was chiefly in vindication of
‘their own Native Laws, unto which
‘I hold my self the *more obliged* by the
‘Duty of my Profession; and I ac-
‘count it an honour to me to be a
‘Lawyer.

‘As to the Debate, and Matter of
‘the Act now before you, I have deli-
‘vered no Opinion against it, nor do
‘I think it reasonable, that the gene-
‘rality of the People of England
‘L 3 should,

‘ should, by an Implicit Faith, depend
‘ upon the knowledg of others, in
‘ that which concerns them most of
‘ all.

‘ It was the *Romish* Policy, to keep
‘ them in *Ignorance* of Matters pertain-
‘ ing to their *Souls* Health; let them
‘ not be in *Ignorance* of Matters per-
‘ taining to their *Bodies*, *Estates*, and
‘ all their *worldly* Comfort.

‘ It is not unreasonable, that the
‘ Law should be in the Language
‘ which may best be understood by
‘ those, whose *Lives* and *Fortunes* are
‘ subject to it, and are to be governed
‘ by it.

‘ *Moses* read all the *Laws* openly
‘ before the *People* in their *Mother*
‘ Tongue: God directed him to write
‘ it, and to expound it to the *People*
‘ in their own *Native* Language, that
‘ what concerned their *Lives*, *Liber-*
‘ ties, and *Estates*, might be made
‘ known unto them in their most *perfi-*
‘ cious way.

‘ The *Laws* of the Eastern Nations
‘ were in their proper Tongue.

‘ The *Laws* at Constantinople were
‘ in Greek; at Rome in Latin; in
‘ France, Spain, Germany, Sweden,
‘ Denmark, and other Nations, their
‘ *Laws* are published in their Native
‘ *Idiom*.

‘ For your own Country, there is
‘ no Man that can read the Saxon
‘ Character, but may find the *Laws* of
‘ their Ancestors yet extant in the Eng-
‘ lish Tongue.

‘ Duke William himself com-
‘ manded the *Laws* to be proclaimed
‘ in English, that none might pretend
‘ ignorance of them.

‘ It was the Judgment of the Par-
‘ liament, 36. Edw. 3. That Plead-
‘ ings should be in English; and in
‘ the Reigns of those Kings, when
‘ our Statutes were enrolled in
‘ French and English; yet then the
‘ Sheriffs, in their several Coun-
‘ ties,

'ties, were to proclaim them in
'English.

'I shall conclude with a Complaint
'of what I have met with abroad,
'from some *Military* Persons; no-
'thing but *Scoffs* and *Invectives* against
'our *Law*, and Threats to take it
'away; *but the Law is above the reach*
'*of those Weapons, which at one time or*
'*another will return upon those that use*
'*them.*

'Solid Arguments, strong Reasons
'and Authorities, are more fit for
'Confutation of any Error, and Satisf-
'faction of different Judgments:
'When the *Emperor* took a *Bishop* in
'complete *Armour* in a *Battle*, he sent
'the *Armour* to the *Pope*, with
'these words, *Hæccine sunt vestes Filii*
'*tui?*

'So may I say to those *Gentlemen*
'abroad, as to their *Railings*, *Taunts*,
'and *Threats* against the *Law*, *Hæccine*
'*sunt Argumenta horum Antinomiano-*
'*rum?* They will be found of no
'force, but recoiling Arms.

Nor

*'Nor is it ingenious or prudent for
'ENGLISH-MEN to deprave
'their Birth-right, the Laws of their
'own Country.*

Thus, Sir, have I impartially given you my Sentiments of William the first his Conquest, which hath been so terribly and frightfully represented and published to the World, by the Ignorance, Interest, and Artifice of some Modern Writers: Thus have I, as an English Man, endeavoured to do my Country Justice, and to support the true Honour, both of our worthy Saxon Ancestors, and of our excellent and famous Laws against Conquest and Slavery; as also to justify the Ancient Parliamentary Right as well of Lords as Commons.

But yet for your fuller and clearer satisfaction in this so weighty a Point, I shall refer you, if you please, to the Learned and Judicious Discourses writ, in some measure, more particularly upon

upon this Subject, never yet sufficiently answered to my Conviction, though I have industriously compared and considered all the pretended Answers and them together, (without the least of byass or prepossession; and I heartily could wish others would do the like, and that for TRUTH's sake.)

The Discourses are these, viz.

Mr. Selden's *Jani Anglorum Facies Altera*

Mr. Sykes Taylor's *History of Government*

Mr. Pety's *Rights of the Commons of England asserted*

And Mr. Atwood's, *Jani Anglorum Facies Nova*

And his,

— *Jus Anglorum ab Antiquo.*

You would likewise, I suppose, be extremely pleased in the perusal of another Learned and Modest Book; written

Anti-Normannicum.

clv

written by an *Anonymous* Author, entitled,

Patriarcha non Monarcha.

Authors, for whose Names Posterity will have a greater respect than we at present have; and that for their discovery of Truth, and refuting so many Vulgar Errors,

I am, SIR,

Your most Faithful

Servant, &c.

FINIS.

Anti-Newtonianism.

Written by an anonymous Author, con-
cluded,

Published by Messrs.

Authors for whose Names Poster-
ity will have a greater respect than we
at present have; and that for their
discovery of Truth, and refusing to
many Vulgar Errors.

I am, SIR,

Your most Faithful

Servant, &c.

FINIS.

The Appendix.

A Bbis de Middleton tenet in Capite de Domino Rege Mann-
nerium de Middleton, &c. ex Feoffamenti Regis Æthel-
stani & nullum servitium fecit nisi Orationes.

*In Rotulo de Inquisitionibus Dominicorum Dorsetshire
Ano. 4to. R. H. Fil. R. I.*

Here we see that King Æthelstan, who reigned above
740 Years agoe, infeoffed the Abbey of Middleton, of the
Mannor of Middleton; and that by virtue thereof, the Ab-
bot held it in Capite, 4. H. 3. and did no Service for it, but
only to pray for the Souls of him, and other succeeding
Kings; and all this, you see, found by Inquisition, in the
Fourth Year of Hen. 3.

Rot. Cartar. 19. H. 6. Nu. 16. m. 27. per Inspex.

Pro Decano & Capitulo Sancti Martini Magni
London. per Inspeximus.

*Inspeximus Cartam, quam celebris Memoriz Dominus Wil-
lielmus quondam Rex Angl. progenitor nostri, fecit Deo
& Ecclesie Sancti Martini Magni London. in hec verba.*

Quia inter multa bona opera, quæ fideles Chri-
sti pro animarum suarum salute operantur, hoc preci-
puid estimatur & tenetur, Quod institutioni & e-
dificationi Sanctæ Matris Eccle devota mente impendi-
tur

tur in qua suorum Dei supplicationibus peccata a pio Deo diluuntur, quod Moises in mystici Tabernaculi constructione p̄monstravit, quod etiam Salomonis industria p̄figuravit, dum Templum Dño Artificiosum & honorabile edificaret, futuram significans Eccleam summo a fidelibus debere honore decorari, quon̄ vidit exemplo in nomine Dñi nr̄i Iesu Christi, Ego Willus Dei dispositione & *con-*
sanguinitatis hereditate Anglorum Basileus Normannorūq;
 Dux, & Rector cujusdam fidelis mei Ingelrici scilicet *pe-*
titioni acquiescens *Archiepiscoporum, Episcoporum, Abbatu-*
um, Comitum & Universorum procerum meorum, *Sacro*
Consilio parens omnes possessiones terrarum, quas tempore *ve-*
nerabilis ac dilectissimi cognati & predecessoris mei Regis Ed-
wardi. Idem Ingelricus acquisierat q̄ ipsius insignissimi
 Regis Animæ Salute, necnon & peccatorum meorum Re-
 missione, concedo & Regia auctoritate imppm̄ corro-
 boro & confirmo Deo & Ecclē Beati Martini, quam *in-*
fra muros London. sitam p̄fatus Ingelricus & Erardus Frat-
 ejus de propriis suis Redditiis in delictorū suorū Remē-
 diū honorabiliter ad Dei laudem, & Canonicalem Re-
 gulam imppm̄ servand & tenend construxerunt. Sunt
 igitur hæc terrarum nomina, &c.

Et si quas alias libtates vel consuetudines, aliqua Ec-
 clearū Regni mei Angl̄ meliores het; si quis vero hoc in
 aliud quam concessimus transferre p̄sumperit, cum Juda
 Proditore Dei hæredibas luat penas. Scripta est hæc Char-
 tula An ab Incarnatione Dñi M. LX. VIII. scilicet secun-
 do Anno Regni mei; pacta vero est hæc Donatio die Na-
 talis Dñi, & postmodum in die Pentecost̄ confirmat̄,
 quando Matil conjux mea in Basilica Sancti Petri Westm̄
 in Reginam divino nutu est consecrata, &c.

Ego Willus Rex Anglorum & Dux Normannorum
 sub Sigillo Sancte, † quas indeclinabiliter consensi atq;
 †
 roboravi. Ego Matil Regina consensum prebui. Ego Ri-
 cus

dus Regis Fit annui. Ego Stigandus Archiepiscopus sub-
 scripsi. Ego Aldredus Archiepiscopus confirmavi. Ego
 Willus Lond Episcopus, infra cuius muros p̄fatum Mo-
 nasterium situm est, signaculo Sancte Crucis subarravi, &
 libertatem omnimodam quantumeumq; mee p̄tinet possibi-
 litati, concessi. Ego Odo Baiocensis Episcopus concessi.
 Ego Hugo Luxonienſis Episcopus interfui. Ego Goiffri-
 dus Episcopus corroboravi. Ego Hermannus Episcopus
 concessi. Ego Leouricus Episcopus concessi. Ego Giso
 Episcopus concessi. Ego Edwinus Abbas. Ego Wol-
 waldus Abbas. Ego Baldwinus Abbas. Ego Agellinus
 Abbas. Ego Turlinus Abbas. Ego Brand Abbas. Ego
 Alswinus Abbas. Ego Sithricus Abbas. Ego Willſ Fit
 Osbtī Comes. Ego Robtus Frat Regis Comes. Ego
 Edwinus Comes. Ego Robtus Comes. Ego Marchere
 Comes. Ego Waldeof Comes. Ego Rogerus de Monte
 Goverii Comes. Ego Ricus Fil Gillebtī Princeps. Ego
 Willſ Malet Princeps. Ego Arfastus Regis Cancellarius.
 Ego Michael Regis Capellanus. Ego Giffbtus Capellanus.
 Ego Osbinus Capellanus. Ego Willſ Capellanus. Ego
 Thomas Capellanus. Ego Bernardus Capellanus. Ego
 Walterus Capellanus. Ego Robtus Capellanus. Ego
 Johes Sancte Romane Eccle Cardinalis Presbit per Gal-
 lias & Angl concedente Papa Alexandro vices Apostolicas
 gerens, huic constitutioni interfui, & quantum Aposto-
 -
 lice Sedi p̄tinuit libertatem Eccle p̄senti Signo confirma-
 vi. Ego Petrus Sancte Romane Eccle similiter Cardina-
 lis Presbit & Cancellarius, ab eodem Papa in Angl ele-
 -
 gatus, huic Constitutioni acquiescens propria Manu sub-
 scripsi.

I give you this Charter, Sir, as a further Proof and Evidence for me, in these Particulars, viz.

1. You may observe by these words, *Consanguinitatis hereditate Anglorum Basilens*, that here King William made an absolute disclaimer of Conquest, in the second Year of his Reign, and only insisted on, (what he knew full well was his *surer bold*,) his claim by Hereditary Right.

2. And this is so much the more considerable, as it was done in his Great Council of Arch-bishops, Bishops, Abbots, Earls, & *Universorum procerum suorum*, a word of a large signification, as well in Historians as in Ancient Records, for under the word *Proceres* were comprehended *Principes Civium, vel Civitatis*; And the former Instances I have given you of other General Councils, and the Parts thereof in this King's Reign, fully agree with this Interpretation,

*Rot. Parl. 2.
H. 3. Pars se-
cunda N. 10.*

3. The Claim and Protestation of the Commons made the Parl. 2d H. 5. which says, *That so as hit hath ever be their Liberte and Freedom, that thar should no Statute, ne Law, be made of lasse then they yasse thereto their assent, considering that the Commune of your Lond, the which that is, and ever hath be a Membre of your Parliament, been as well Assentirs as Petitioners.* And which was ratified and confirmed by the King and Lords, and so became an Act of Parliament, was, but an Affirmation and Declaration of the Ancient Law of the Land: And the same Right cannot be denied by any Man to the Lords.

4. And that he confirmed (as the Custom of succeeding Kings have done to this day) all the Possessions of those Lands to the Church of St. Martins le Grand, which they had in the Time of EDWARD the CONFESSOR.

Now if this fond Notion of William's Absolute Conquest be true,

true, then either the Arch-bishops, Bishops, Abbots, Priors, Earls, Barons, and Commons, in *Parl.* 15. R. 2. knew it, or they did not. That they were ignorant of it, is not easily to be presumed, because they lived within ten of three hundred Years ago, and no doubt but there were some Learned Men among them, that knew the ancient Constitutions of the Nation: And if they did, then were they guilty of the greatest madness and folly that ever was, when the Commons prayed that King; *En plein Parlement que nostre Seigneur le Roy soit & estoise aussi frank en sa Regalie Liberte & Dignite Royale en ton temps come ascuns de cest Noble Progenitors, Roys d'Engl furent en leur temps nient contresteant ascun Estatut ou Ordinance fait devant cest hures a contraire & mesment en derogation de la Libertee & Franchise de la Corone qu'il soit adnulle & de nul force & puis touz les Prelates & Seigneurs Temporels prièrent en mesme le manere & sur ce nostre Seigneur ledit Roy mercia les dits Seigneurs & Communes de la grant tendresse & affection qu'ils avoient a la Salvation de son Honneur & de son Estate & a cause que leur dit priers & requestes luy semblerent honestes & resonables il sagrea & assenta pleinement a ycelles.*

Rot. Parl.
15. R. 2.
N. 13.

Now can any Man, of but an ordinary understanding, think, That the Parliament intended, by this Act, to ont themselves of all their Ancient and Legal Rights, and totally to give up their Estates and Fortunes to the King's absolute Disposition? Is it possible almost to be supposed, that they designed to confound and overthrow the whole Polity and Government of the Kingdom, and reduce all to the Arbitrary Will and Power of a New Conqueror, without a Conquest? What Man is there (that is not become servile to Common Opinion, and implicit Suppositions) of so Inventive a Faculty, as to conjecture such grand Absurdities? And yet

yet these, and many more, are the direct Consequences of those that endeavour to maintain and justify these pernicious Principles.

For the *Petition and Law* is, that *Rich. 2.* should be as free in his *Regality, Liberty, and Dignity* Royal, as any of his *Noble Progenitors* Kings of *England*; then it naturally follows, That he was to be as *Free and Absolute* as

The Anonymus Author
against *Mr. Petyt.* p. 43.

William the Conqueror: And then what is the Conclusion and Result, But that the *English* were neither to have *Estates* nor *Fortunes* left them: and therefore it could be no great Matter to them, by *what Law, Right, or Property*, Men held their *Estates*; And so farewell to *Parliaments*.

But we know, and are well assured, That *Raf. Stat. 15 R.2. f. 161.* never any such *Imagination* entred into the *Minds* of the *Lords and Commons*, in *15. R. 2.* not only by the *Laws* made then in that *Parliament*, but by those in the next *Parliament*, held the next Year after.

The *Commons* granted to the *King*, *Rot. Parl. 16 R.2. N.8.* That (*pur la grant Affiance, Affection, and Assurance*) for the great *Trust, Affection, and Assurance* they had in the *Noble Person* of the *King*, in his most excellent *Knowledg*, and his most sage *Discretion*; and also for the great *tenderness* they had for his *Crown* and the *Kingdom* (*& les dross dicels*) and the *Rights* thereof, (*s'accorderant & assenterent*) they agreed and assented, in *full Parliament*, That the *King*, by good *deliberation*, and *Assent* of the *Lords* of his *Wise Council*, might take the whole *Matter*, touching the *Statute of Provisors*, to him; and that he should have *full Power and Authority* to *modify* the said *Statute* against the *Pope* and *Court of Rome*, and to *Ordain*,

dain, by the *Deliberation* and *Assent* aforesaid, in such manner as he should think best, to the *Honour* of *God*, and of *Holy Church*, and the *Salvation* of the *Rights* of his *Crown*, and of the *Estate* and *Profit* of this *Realm*, and to put the same in execution when done.

And that (*au prochein Parlement*) at the next Parliament, all the Matter aforesaid should be fully shewn (*as ditz Communes*) to the said Commons; and the Reason thereof is memorable, *viz.* (*au fin quilz purront alors par bon avisement agreeer, si Dieu plect, a ycelles*;) That the Commons then might, upon good advice, agree thereto, if it should so please God.

From all which it evidently appears;

1. That *no Law* could be made in *Richard* the *Second's* Time, or in any of his *Progenitors*, *Kings* of *England*, (which cannot but take in *William* the *First*) without the *Assent* of the *Lords* and *Commons* in *Parliament*.

2. That *none* of those *Kings* could *abrogate* or *make void* such *Laws*, when made, without the like *assent*.

3. That though the *General Phrase*, *viz.* That *King Richard* should be and stand as free in his *Regality*, *Liberty*, and *Dignity Royal* in his Time, as any of his *Progenitors* were in *Theirs*; and that the *King* says, That the *Desires* and *Requests* of the *Commons*, seemed *honest* and *reasonable* to him, and therefore he gave his *Royal Assent* to that *Law*: Yet neither the *King*, nor the *Lords*, could ever believe, that it was *honest* and *reasonable*; or that it was any part of the *Liberty* and *Dignity* of the *Crown*, to change the whole *Frame* and *Constitution* of the *English Government*, by altering and making *Laws* at *Will*; by taking away the *Subjects Possessions*, and bestowing them upon whomsoever he pleased; by destroying the *ancient Course* and *Power* of *Parliaments*; and, in a word, by turning all things topsy turvy. And

And thus we have the Evidence and Proof of the greatest Authority that can be given, against the Absurdity, as well as falseness, of King William's Absolute Conquest, viz. a Law and Statute of the Kingdom.

To conclude all, I shall make bold to borrow the words of that great Assertor of the Protestant Cause, against the Intollerable Usurpations of Papal Power, the so eminently Learned and Pious Thomas now Lord Bishop of Lincoln, in his Treatise of Popery, or the Principles and Positions approved by the Church of Rome, &c. in Quarto, pag. 116. and say, If any Man can truly and impartially (as to the sum and substance of the Testimonies here cited, for I neither need, nor will undertake for every particular Circumstance, or Typographical Error) either shew,

1. That I have misquoted the Authors and Books I cite; and that such Passages do not occur in the places quoted.
2. Or (if they do occur) that I have mistook their meaning, as to the Purposes for which they are produced.

I say, If any Man can, and will ingeniously shew me either of these, I shall be so far from not confessing my Fault, or declaring how I was misled into it; that I shall have a hearty value for any such friendly admonition, and receive it with all the grateful acknowledgment as becomes me: For my only design is, the Detection of Error, and Establishment of Truth to future Generations, and not to have the World imposed upon by the Tricks, Impostures, and Artifices, which too many have been guilty of, either to promote their own particular Gain and Interest, (to which such care not what they Sacrifice) or, upon a far worse, and more grievous Consideration, to bring the whole Nation into dividing Parties and Factions; and thus by Embroyls and Entanglements, to throw them at last into fatal Convulsions, to the destruction both of Prince and People.

FINIS



